It’s advantage ArcelorMittal, as NCLT rejects Essar Steel promoters’ plea to repay debt

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In a blow to the Ruias and their hope to retain crown jewel Essar Steel, the National Company Law Tribunal (NCLT) has rejected the promoters’ plea to repay debt of the company.

The NCLT reportedly said there is no illegality in banks not accepting the plan of Essar Steel’s promoters.

While the Tribunal had done nothing wrong in selecting the bid by ArcelorMittal, it added that a withdrawal of the insolvency case – as demanded by the Ruias – can only be done by the applicant who initiated the process.

In this case, the applicant is State Bank of India, the lead lender. The withdrawal is allowed under Section 12A of the Insolvency and Bankruptcy Code.

The Ruias had presented a Rs 54,389 crore proposal to withdraw Essar Steel from insolvency courts. The offer is higher than the Rs 42,000-crore bid from ArcelorMittal, which has the backing of lenders.

Sources said that the Ruias will move the National Company Law Appellate Tribunal, against today’s order.

At present, the Essar promoters are sticking to their point.

“We continue to believe that our offer of Rs 54,389 crore is the most compelling proposal available to Essar Steel creditors. It seeks to repay all classes of creditors and fulfills the IBC’s overriding objective of value maximisation that has been established time and again by courts at all levels,” an Essar spokesperson said in a statement.

“We submitted the proposal under the recently introduced Section 12A of the IBC and the recent judgement of the Supreme Court has established that the section’s provisions are applicable retrospectively. We are awaiting a copy of the full NCLT order, and will take a call on next steps after we have thoroughly gone through the contents,” the spokesperson said.

The lenders have held that Ruias’ offer will only be considered if they are directed to do so by the courts.

Advantage ArcelorMittal

Today’s order will push the case of the LN Mittal-company, which already has the backing of the lenders.

“The chances (for the Ruias) are now slim. I don’t think that the NCLAT will interfere,” said a lawyer at a leading legal firm.

At the same time, the Ruias can appeal to the NCLAT, and also to the Supreme Court.

“A borrower can argue that if they are ready to repay the entire debt including all dues to all the creditors then it’s no more an IBC resolution, not even a settlement but repayment of all the dues by a borrower,” said Babu Sivaprakasam, Partner, Economic Laws Practice.

“It will not be an easy proposition for any party to take a stand that a borrower or guarantor shall be barred from not paying their dues in entirety and once all dues including CIRP costs are fully paid the IBC petitions become infructuous as no resolution is warranted,” he adds.

With the Government and the courts pushing to expedite the resolution process, the end to the biggest insolvency case, is nigh.
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