

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS. 8337-8338 OF 2017

M/S. INNOVENTIVE INDUSTRIES LTD. ...APPELLANT

VERSUS

ICICI BANK & ANR. ...RESPONDENTS

J U D G M E N T

R.F. Nariman, J.

1. The present case raises interesting questions which arise under the Insolvency and Bankruptcy Code of 2016 (hereinafter referred to as the Code), which received the Presidential assent on 28th May, 2016, but which provisions were brought into force only in November-December, 2016.

2. The appellant before us is a multi-product company catering to applications in diverse sectors. From August, 2012, owing to labour problems, the appellant began to suffer losses. Since the appellant was not able to service the financial assistance given to it by 19 banking entities, which had extended credit to the appellant, the appellant itself proposed corporate debt restructuring. The 19

entities formed a consortium, led by the Central Bank of India, and by a joint meeting dated 22nd February, 2014, it was decided that a CDR resolution plan would be approved. The details of this plan are not immediately relevant to the issues to be decided in the present case. The lenders, upon perusing the terms of the CDR proposal given by the appellant and a techno-economic viability study, (which was done at the instance of the lenders), a CDR empowered group admitted the restructuring proposal vide minutes of a meeting dated 23rd May, 2014. The Joint Lenders Forum at a meeting of 24th June, 2014 finally approved the restructuring plan.

3. In terms of the restructuring plan, a master restructuring agreement was entered into on 9th September, 2014 (hereinafter referred to as the MRA), by which funds were to be infused by the creditors, and certain obligations were to be met by the debtors. The aforesaid restructuring plan was implementable over a period of 2 years.

4. Suffice it to say that both sides have copiously referred to various letters which passed between the parties and various minutes of meetings. Ultimately, an application was made on 7th December, 2016 by ICICI Bank Ltd., in which it was stated that the appellant being a defaulter within the meaning of the Code, the

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