

सं. 59/1999

पंजीकृत

भारत सरकार

औद्योगिक और वित्तीय पुनर्निर्माण बोर्ड

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21 वीं मंजिल, जवाहर व्यापार भवन,
1, टॉलस्टीय मार्ग, नई दिल्ली - 110001

दिनांक : 08.8.2012

टैलर:- 031 66492

तार:-

फैक्स:- 23701211

सेवा में,

(संलग्न सूची के अनुसार)

विषय :- मै. जी. एस. ए. एल. इंडिया लि.

के मामले / मामला संख्या 59/1999

प्रति,

मुझे दिनांक 06.8.2012 की कार्यवाही/अदेशों/ ~~सूचना~~ सूचनाओं नोटिस की प्रकाशित प्रति आपको सूचना तथा आवश्यक कार्रवाई के लिये भेजने का निर्देश हुआ है।

भवदीय



अनुलग्नक - 1 तथा उपरोक्त

वी.के. श्रीनिवासन
अनुभाग अधिकारी
बेंच-1, वी.आई.डी.आर.

BOARD FOR INDUSTRIAL AND FINANCIAL RECONSTRUCTION

CASE NO. 59/1999 : M/S. GSAL INDIA LTD.

**PRONOUNCEMENT OF ORDER DT. 06.08.2012 OF PROCEEDINGS OF
THE HEARING HELD ON 08.05.2012 BEFORE THE BENCH CONSISTING
OF SHRI NIRMAL SINGH, CHAIRMAN AND SHRI Y.K. GAIHA, MEMBER**

BENCH-I

<u>Present</u>	<u>Name & Designation of the Representatives S/Shri/Ms</u>
M/s. GSAL India Ltd.	Rajesh Bohra, Advocate
IDBI	Absent
Steel Exchange India Ltd.	Nilesh Sharma

1.1 The reference filed by M/s G.S.A.L.(India) Ltd. (hereinafter referred to as the company) under Section 15(1) of the Sick Industrial Companies (Special Provisions) Act, 1985 (hereinafter referred to as the 'Act') was considered in the hearing held on 06.07.1999 when the company was declared a sick industrial company in terms of Section 3(1)(o) of the Act and Industrial Development Bank of India(IDBI) was appointed as the Operating Agency (OA) u/s 17(3) of the Act to formulate a rehabilitation scheme based on the company's proposal and keeping in view the provisions of Sec 18 of the Act and the guidelines given by the Board.

1.2 Subsequently, three years later, the Board concluded that the company was not likely to make its net worth exceed its accumulated losses within a reasonable time, and vide order dated 27.9.2002 confirmed its prima facie opinion that it would be just, equitable and in public interest that the company be wound up u/s.20(1) of SICA. Thereafter, on an appeal filed by the Company against the above BIFR order, Hon'ble AAIFR vide order dated 10.8.2005 observed that in the light of certain positive developments there was a fair possibility of reviving the company. Hon'ble AAIFR, accordingly directed the company to formulate a draft rehabilitation

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scheme (DRS) based on one time settlement(OTS) of dues and submit the same to OA/BIFR for consideration.

1.3 In order to comply with the AAIFR orders, IDBI(OA) was directed vide fax dated 20.9.2005 & 8.3.2006 to expedite formulation of DRS. IDBI vide its letters 10.11.2005, 9.1.2006 & 23.3.2006 submitted that a DRS base on restructuring/settlement of dues to the secured creditors was submitted to AAIFR in May 2005. The DRS was subsequently discussed in a joint meeting on 18.7.2005 when all the secured creditors had conveyed their consent to the reliefs and concessions envisaged in the scheme which included writing down of equity capital by 85%, allotment of equity shares on preferential basis and allotment of 0.1% optionally convertible cumulative redeemable preferential shares (OCCRPS) in lieu of simple interest, deferred interest and funded interest dues to FIs. In order to give effect to restructuring of the debt and equity, company vide its letter dated 1.4.2006 stated that they have brought in Rs.10 crore as their contribution and sought Bench approval to issue preferential equity shares worth Rs.1826 lakh and 0.1% OCCRPS worth Rs.9836 lakh to FIs in order to implement the restructuring package sanctioned by FIs and also prayed to exempt them from the compliance of the provisions of the Companies Act, 1956 and also SEBI guidelines or any other applicable provision/guidelines in the matter.

1.4 On consideration of the facts on record, the submissions made by IDBI and the company, the Bench had granted its approval to the company to issue preferential equity shares worth Rs.1826 lakh and 0.1% OCCRPS worth Rs.9836 lakh in terms of section 32(1) of the Act. The OA was also directed to expedite the DRS immediately on completion of the above process.

1.5 IDBI(OA) vide its letter dated 20.5.2006 submitted that the company continues to be in default in payment of dues to institutions and has not submitted any alternate proposal acceptable to the secured lenders/all other involved parties. Therefore, in the absence of a fully tied-up rehabilitation



proposal from the company, it would not be possible to prepare a DRS for the company as directed by the Bench.

1.6 The Board noted that there was no rehabilitation proposal, with means of finance fully tied up, available for its consideration despite ample opportunities having been given to all concerned. The Board, therefore, concluded that the present promoters were neither serious nor resourceful enough to revive the company and also that no useful purpose would be served even if change of management was ordered. The Board formed a prima facie opinion that GSAL was not likely to make its networth exceed its accumulated losses within a reasonable time, while meeting all its due financial obligations, and that the company, as result thereof, was not likely to become viable in future and that it would be just, equitable and in public interest that it be wound up u/s 20(1) of SICA. In compliance of the Board's order dated 6.7.2006, a show cause notice was issued to the company and a gist thereof was published in newspapers for the information of the shareholders, workers, creditors, customers and others etc.

1.7 Simultaneously, as a final opportunity, the company, the present promoters or a registered WICS or any outside promoter, were permitted to submit a fully tied up proposal to the OA within 30 days from the date of the order/publication in newspaper, alongwith a deposit of 25% of the promoters' contribution towards the cost of rehabilitation of the company as per their proposal, to establish their seriousness and resourcefulness, in an interest bearing 'no lien account' (NLA) with the OA. The OA was directed to consider the proposal only if it was accompanied with the deposit in NLA, then hold a joint meeting (JM) and submit an acceptable and viable DRS along with the minutes of JM, well before the scheduled hearing.

1.8 At the hearing held on 16.10.2006, the Bench adjourned the hearing and directed the company to submit a certified copy of AAIFR's order dated 22.9.2006. Hon'ble AAIFR had stayed the operations of Board's order dated 6.7.2006 wherein the Bench had directed that show cause notice for winding-up may be issued

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1.9 Hon'ble AAIFR vide order dated 1.9.2009 set aside the Board order dated 6.7.2006 and remanded back the matter to the Board with directions to formulate a DRS for revival of the company on the basis of revised DRS to be submitted by the company within a period of six weeks from the date of this order and thereafter proceed according to law. Hon'ble AAIFR further directed that the sanctioned scheme must clearly lay down the management and equity structure that shall obtain in terms of the revival scheme approved by the BIFR.

1.10 In the hearing held on 1.6.2010 in Misc. Application No. 332, the Bench issued the following directions:-

- (i) The company is hereby directed to appoint the one (1) Nominee Directors in each of the following organizations on the Board of the company:
 - (a) M/s Prithvi Asset Reconstruction and Securitisation Co.Ltd. (PARAS)
 - (b) IDBI(OA)
- (ii) The Board shall appoint a Special Director u/s 16(4) of the SICA in due course of time.
- (iii) M/s Prithvi Asset Reconstruction and Securitisation Co.Ltd. (PARAS) shall serve a copy of these proceedings on the concerned Registrar of Companies (ROC) for taking on record, the appointment of Nominee Directors on the Board of the company.
- (iv) The Misc. Application No. 332 in the case of M/s GSAL India Ltd. is disposed of accordingly.

1.11 In the hearing held on 9.6.2010, the Bench issued the following directions :-

- (i) The company is directed to show cause 2 weeks as to why directions for change of management of the company should not be issued, for its inability to submit a fully tied-up DRS as directed by Hon'ble AAIFR. The company may note that if no reply or satisfactory reply is not received, the Bench may confirm issue of directions for the change of management of the company in the next hearing.

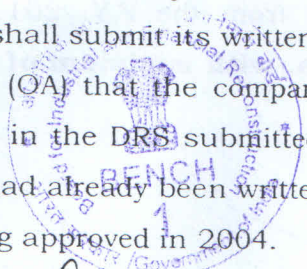
- (ii) The company shall explain as to how the company has been leased to Steel Exchange India Ltd (SEIL) without the consent of the Board/Hon'ble AAIFR, and why a SCN should not be issued to them. The company shall confirm as to whether the company will retain its industrial character after leasing out the company to SEIL.
 - (iii) State Bank of India and Bank of Baroda are exempted from attending the future hearings of the company.
 - (iv) The next hearing in the case will be held on 9.7.2010.
- However, the hearing scheduled for 9.7.2010 was postponed.

1.12 In the hearing held on 1.7.2010 (MA No. 405), the Bench issued the following directions :-

- (i) IDBI (OA) shall continue to perform the duties of Operating Agency (OA) in the company's case. IDBI (OA) should be prompt, objective and impartial while examining the DRS of the company. IDBI (OA) shall conduct a joint meeting of concerned agencies from whom the company had sought reliefs and concessions and submit a fully tied up DRS, if it emerges to the Board early.
- (ii) The Miscellaneous Application No. 405 in the case of M/s GSAL India Ltd. is disposed of accordingly.

1.13 In the hearing held on 26.8.2010, the Bench issued the following directions:-

- (i) The Show Cause Notice for change of management is held in abeyance till the next hearing of the case.
- (ii) IDBI (OA) shall conduct a joint meeting on 15.9.2010 of concerned agencies including PARAS from whom the company had sought reliefs and concessions and submit a fully tied up DRS, if it emerges to the Board within further 30 days.
- (iii) The company shall submit its written submissions on the submissions made by IDBI (OA) that the company had proposed writing down of equity by 90% in the DRS submitted by it and in 2006 the equity of the company had already been written down by 85% in 2006 as a part of restructuring approved in 2004.



(iv) The next hearing in the case will be held on 2.11.2010.

1.14 In the hearing held on 02.11.2010, the Bench issued the following directions:-

- (i) The DRS submitted by IDBI(OA) to be examined in the Board.
- (ii) IFCI shall submit its written submissions on the swap ratio within 15 days, with a copy to the OA and the company. OA to submit its report thereafter, within 15 days.
- (iii) The next hearing in the case will be held on 23.2.2011 and in case DRS is circulated, the hearing will be postponed.

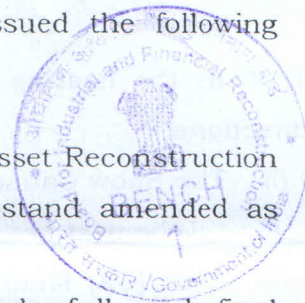
1.15 In the hearing held on 23.01.2012 (MA No.834), the Bench observed that clarifications were received from IDBI(OA) only on the last working day (20.1.2012). Accordingly, the Bench directed that the Board's office to examine the DRS early. The Miscellaneous Application No. 834 is disposed of accordingly.

1.16 The Board vide order dated 13.02.2012 circulated the DRS of the company.

1.17 In the hearing held on 8.5.2012, the Bench issued the following directions :-

(a) Para 11.1(a) under the heading "M/s Pridhvi Asset Reconstruction & Securitization Company Ltd (PARAS)" of DRS stand amended as under :-

"To accept an amount of Rs.2500 lakhs towards full and final settlement of all its dues against the company, as per letter of acceptance dated 29.10.2010. The total amount would be paid in 16 quarterly installments starting from the F.Y. 2011-2012, alongwith interest @ **Bank rate + 12% p.a. with minimum of 18% at quarterly rests.**"



(b) Para 11.2(b) & (c) under the heading "Government of Andhra Pradesh" of DRS may be prefixed with the word "To Consider" and para 11.2(b) also stand amended as under :

"To Consider to accept the payment of dues of Rs.857.74 lakhs towards Interest-free Sales Tax Loan outstanding **as on date of sanction of scheme** over a period of five years in equal annual installment commencing from F.Y.2011-2012, on interest free basis."

(c) Para 11.4 under the heading "CBDT" stand amended as under :

"To Consider to exempt / grant relief to the company from the provisions of Section 41(1), 45, 72(3), 43-B, 79, 80 read with 139, 115JB and provisions of Chapter XVII of the Income Tax Act, **except section 72(A) of the Income Tax Act**".

(d) Para 12(i) under the heading "Special Terms and Conditions" -The company to file its written submissions within one week stating that subsequent to investment made by SEIL in the sick company to settle the dues of the sick company, there was no transfer of shares to SEIL.

(e) Para 12(ii) under the heading "Special Terms and Conditions" - the Bench satisfied to the submissions made by the sick company GSAL and Steel Exchange India Ltd (SEIL) and agreed to ratify the mistake done by the sick company in the interest of revival of the sick company.

(f) Para 13(iii) to be amended subject to the approval of BIFR.

(g) Para 13(iv) under the heading "Other Terms and Conditions" stand amended as under :

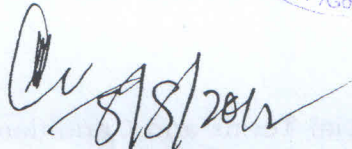
"The company / SEIL / merged entity shall not declare any dividend on its equity without completing all the requirements of the Companies Act".


(h) The Bench reserved the order.



2.1 In today's pronouncement of order (06.08.2012), the company and the OA(IDBI) have filed their report. The report has been examined by the Bench. The OA has reported that the certificate dated 10.7.2012 from S.Srikanth & Associates, Company Secretaries, Hyderabad indicate that the Steel Exchange India Ltd. (SEIL) or its group companies viz. Vizag Profiles Pvt.Ltd. and VPL Projects Pvt.Ltd. and also any of the promoter directors were never allotted shares of GSAL either before or subsequent to the investment made by SEIL in GSAL. The report reveals that there is no issue of change of management or any violation of the direction of BIFR.

3. Therefore, the Bench approved the Scheme.


(YK GAIHA)
MEMBER


(NIRMAL SINGH)
CHAIRMAN

DATE OF ISSUE
9 AUG 2012

Board for Industrial & Financial Reconstruction
BENCH-I
प्रमाणित सत्य प्रतिलिपि
Certified to be True Copy

Bench/ Section Officer

Case No. 59/99 -- M/s. GSAL (India) Ltd.

1. Managing Director,
M/s. GSAL (India) Ltd.,
6-3-802, Ameerpet,
Hyderabad 500 016
(Fax No. 040-313183)
2. Secretary,
Govt. of Andhra Pradesh,
Industries Deptt.,
Hyderabad
3. M/s. Asset Reconstruction Co. (India) Ltd.
(ARCIL), The Ruby, 10th Floor
29, Senapati Bapat Marg
Dadar(West)
Mumbai - 400 028
4. Chairman & M.D.,
IDBI,
IDBI Tower, Cuffe Parade,
Mumbai
5. The Director General,
ESIC,
ESIC Bhawan, Kotla Road,
Behind Foreign Post Office,
New Delhi
6. The Central Provident Fund
Commissioner,
HUDCO Vishala,
14, Bhikaji Cama Place
New Delhi 110 066
7. Steel Exchange India Ltd
Flat No : 303
My Home Lakshmi Nivas Apts
Green Land, Ameerpet
Hyderabad-500 016
8. Chairman & M.D.,
IFCI,
IFCI Tower,
61, Nehru Place,
New Delhi 110 019
9. Chairman & M.D.,
ICICI Bank Ltd.
ICICI Towers,
North Tower (East Wing),
Bandra-Kurla Complex,
Mumbai 400 051
10. Pridhvi Asset Reconstruction and
Securitisation Company Ltd.
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Raj Bhavan Road
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11. The Chairman
Central Board of Direct Taxes
(CBDT), North Block, N/Delhi
12. Dte. of Income Tax (Recovery)
DIT(R), Mayur Bhawan
Connaught Place, New Delhi.
13. Chief Secretary
Govt of Andhra Pradesh
Hyderabad - 500 022
14. Resident Commissioner
Govt. of Andhra Pradesh
Andhra Bhawan
1, Ashoka Road, New Delhi
15. The Secretary
Ministry of Coal
Shashtri Bhavan,
New Delhi-110 001



16. Chairman,
National Mineral Development
Corporation
"Khanij Bhavan", 10-3-311/A
Masab Tank
Hyderabad

17. Andhra Pradesh State Electricity Board
Vidyut Soudha
3rd Floor, Somajiguda
Hyderabad- 500 082

18. The Commissioner of Sales Tax/Commercial Tax
Govt of Andhra Pradesh
Hyderabad



19. The Chairman & M.D.
APIDC
Parisharama Bhavanam
5-9-58/B, Fateh Maidan Road
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