

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,**  
**PRINCIPAL BENCH, NEW DELHI**

**Interlocutory Application No. 1951 of 2025 in**  
**Company Appeal (AT) (Insolvency) No. 1038 of 2020**

**IN THE MATTER OF:**

ArcelorMittal Nippon Steel India Limited  
(now known as ArcelorMittal Nippon  
Steel India Private Limited) ...Applicant

**IN THE MATTER OF:**

Arcelormittal India Private Limited ...Appellant

Versus

SREI Infrastructure Finance Ltd. & Ors. ...Respondents

**Present:**

**For Appellant : Mr. Neeraj Kishan Kaul, Sr. Advocate with Mr. Ashim Sood, Mr. Sanjeev Kumar, Mr. Abhishek E Kisna, Mr. Anshul Sehgal, Mr. Divyansh Jain, Mr. Pranshu Paul, Mr. J. Shivam Kumar, Mr. Srajan Dixit, Mr. Abhishek Tiwari, Mr. Deepak Joshi, Mr. Prateek Kumar, Advocates for Applicant.**

**For Respondents : Mr. N. Venkatraman, Sr. Advocate with Mr. Anirban Bhattacharya, Mr. Rajeev Chaudhary, Ms. Priyanka Bhatt, Mr. Chanrashekhar Bharathi, Mr. Shivshankar G, Mr. Nakul Mohta, Mr. Abhishek R, Advocates for R-1.**

**J U D G M E N T**

**ASHOK BHUSHAN, J.**

I.A. No.1951 of 2025 has been filed by the Applicant (Respondent No.2 in the Appeal - ArcelorMittal Nippon Steel India Limited) praying for following reliefs:

- “(a) allow the present application and transpose Respondent No. 2, viz., ArcelorMittal Nippon Steel India Limited (now ArcelorMittal Nippon Steel India Private Limited) as the Appellant in the present Company Appeal (AT) (Insolvency) No. 1038 of 2020 in view of the approval of the Scheme by the Ld. National Company Law Tribunal, Ahmedabad vide Order dated 15.03.2023 in CP(CAA)/39(AHM)2021 with CA(CAA)80/2020, and
- (b) take on record the amended memo of parties, filed on behalf of existing Respondent No. 2, viz., ArcelorMittal Nippon Steel India Limited (now ArcelorMittal Nippon Steel India Private Limited) that is annexed to the present application as Annexure A-2, and
- (c) pass an order for making all necessary and consequential changes in the pleadings of the present Company Appeal (AT) (Insolvency) No. 1038 of 2020, pending before this Hon’ble Tribunal, as indicated in the amended memo of parties annexed to the present application;

2. In the application, notices were issued and reply has been filed by Respondent No.1, objecting to the prayers in the application, to which rejoinder affidavit has also been filed.

3. The facts giving rise to the above IA No.1951 of 2025 have been stated in the application. Short facts necessary to be noticed for deciding the application are:

- (i) Corporate Insolvency Resolution Process (“**CIRP**”) of the Corporate Debtor (“**CD**”) Essar Steel India Ltd. (“**ESIL**”, now known as ArcelorMittal Nippon Steel) completed by approval of its Resolution Plan by judgment of the Hon’ble Supreme Court dated 15.11.2019.

- (ii) After completion of the CIRP, Respondent No.1 (SREI Infrastructure Finance Ltd.), Financial Creditor in the CIRP filed an IA No.245 of 2020 before the Adjudicating Authority, pleading that 'Right to Use Charges' ("**RTU Charges**") have not been paid by Successful Resolution Applicant ("**SRA**") of ESIL. The Adjudicating Authority vide order dated 10.11.2020 allowed the IA No.245 of 2020 and directed the SRA (Appellant herein) of CD to pay RTU Charges of Rs.1300 crores.
- (iii) Challenging the said order dated 10.11.2020, Company Appeal (AT) (Ins.) No.1038 of 2020 was filed, in which present application has been filed by ArcelorMittal Nippon Steel India Private Limited ("**AMNSIPL**"). Another Company Appeal (AT) (Ins.) No.1043 of 2020 has been filed by ArcelorMittal Nippon Steel India Ltd. (Applicant herein).
- (iv) In both the Appeal(s), this Tribunal has passed an interim order on 04.12.2020 read with order dated 08.12.2020 staying the operation of the impugned order dated 10.11.2020. Challenging the interim order, proceedings were initiated before the Hon'ble Supreme Court, which subsequently came to be dismissed.
- (v) During the pendency of the present proceedings, NCLT Ahmedabad by order dated 15.03.2023 in Company Petition

(CAA)/39(AHM)2021 with CA(CAA)80/2020 sanctioned a Scheme of Arrangement (“**Scheme**”) among the Appellant – ArcelorMittal India Pvt. Ltd. (“**AMIPL**”) and AM Associates India Pvt. Ltd. (“**AMSIPL**”). Under the Scheme, the Appellant is referred to as “**Transferor Company**”/ Amalgamating Company, AM Associates India Pvt. Ltd. has been referred to as “**Transferee Company**”, whereas Applicant ArcelorMittal Nippon Steel India Ltd. has been referred to as Amalgamated Company. As per the Scheme approved by the NCLT, all proceedings pending by the Transferor Company, i.e. the Appellant are to be continued by the Transferee Company and the Amalgamated Company.

- (vi) As per the approved Scheme, IA No.1951 of 2025 was filed by the Applicant (Respondent No.2 to the Appeal) to be transposed as the ‘Appellant’, the Appellant having been amalgamated into Respondent No.2.

4. Respondent No.1 filed reply objecting to the application, raising various pleas, which we shall notice hereinafter. Rejoinder affidavit has also been filed by the Applicant, refuting the pleadings of Respondent No.1 and reiterating its plea that under the Scheme, it is the Applicant, who has taken rights and liabilities of the Appellant, hence, it is the Applicant, who needs to represent the Appellant in these proceedings.

5. We have heard Shri Neeraj Kishan Kaul, learned Senior Counsel appearing for the Applicant and Shri N. Venkatraman, learned ASG appearing for Respondent No.1.

6. Shri Neeraj Kishan Kaul, learned Senior Counsel appearing for the Applicant submits that IA No.1951 of 2025 has been filed on account of the approved Scheme dated 15.03.2023, wherein it is the Applicant, who has taken over the rights and liabilities with respect to the subject matter of the Appeal, the Applicant needs to be transposed as the Appellant to prosecute the Appeal. It is submitted that the Scheme clearly contemplated that proceedings against Transferor Company shall be continued by Transferee Company/ Amalgamated Company. He has referred to Clause (g) of Paragraph-20 of the Scheme to support his submission. Learned Counsel for the Applicant further submitted that it is the Applicant who has taken over the Scheme and the Residual Business Undertaking, contains assets, rights, business and liabilities of all secured and unsecured debts, borrowings and liabilities (including contingent liabilities). The business of the Appellant was bifurcated into Transferred Undertaking and Residual Business Undertaking, whereas Transferred Undertaking was to be taken by AM Associates India Pvt. Ltd. and Residual Business Undertaking was amalgamated in the Applicant. Hence, it is the Applicant, who is entitled to be transposed to carry out the Appeal. It is further submitted that in any view of the matter, the Applicant has also filed its Appeal challenging the same order in Company Appeal (AT) (Ins.) No.1043 of 2020, which is pending consideration. It is

submitted that Applicant undertakes to take all liabilities of Transferor Company, i.e. the Appellant, including the contingent liabilities of Rs.1300 crores as per the impugned order in the present Appeal. The Applicant is, thus, entitled to be transposed in place of the Appellant.

7. Shri N. Venkatraman, learned ASG appearing for Respondent No.1 refuting the submissions of learned Counsel for the Applicant submits that under the order dated 10.11.2020 of the Adjudicating Authority, allowing IA No.245 of 2020 filed by Respondent No.1, a direction was issued by the NCLT for payment of RTU Charges as IRP cost by the Resolution Applicant, i.e. the Appellant. It is, thus, the liability of the Appellant to pay the RTU Charges. Learned Counsel for the Respondent No.1 elaborating the Scheme of Arrangement as approved on 15.03.2023 submits that a clear reading of the Scheme along with Financial Statements of principal entities make it clear that SRA, which is sought to be transposed in place of the Appellant, is not even responsible for payment of Rs.1300 crores towards the RTU Charges and it is infact AM Associates India Pvt. Ltd., who has acquired the said liability pursuant to the Scheme of Arrangement. Referring to the Financial Statements of AM Associates India Pvt. Ltd., it is submitted that in the Financial Statements it is the AM Associates India Pvt. Ltd., which has referred to contingent liabilities of Rs.1300 crores. Financial Statements for the period 01.04.2022 to 31.03.2023 has been referred to as well as the Financial Statements for the period 01.04.2023 to 31.03.2024 of AM Associates India Pvt. Ltd. has been referred, where the contingent liabilities have

been taken note of, stating that contingent liabilities have been acquired by the Company from ArcelorMittal India Private Limited, Transferor Company. It is submitted that AMAIPL, is not even sought to be impleaded in the present proceedings. It is submitted that present application is a clever device to shrug off liability of Rs.1300 crores as was imposed by NCLT vide order dated 10.11.2020. It is submitted that by allowing the application, it will be difficult to make compliance of the direction of the NCLT dated 10.11.2020 for deposit of Rs.1300 crores.

8. We have considered the submissions of learned Counsel for the parties and have perused the record.

9. There is no dispute between the parties regarding facts and sequence of events. In the order dated 10.11.2020, Adjudicating Authority directed as follows:

**“2.** Such IRP Costs have been duly considered and provided by the Resolution Applicant in the Resolution Plan submitted by the Resolution Applicant and approved by the Adjudicating Authority.

**3.** The Resolution Applicant (Corporate Debtor) has contravened the provisions of such approved Resolution Plan by not making payment of such IRP Costs.

**4.** The Resolution Applicant (Corporate Debtor) is directed to make the payment of such IRP Costs to OSPIL by 15.12.2020.”

10. The Scheme of Arrangement as approved by NCLT on 15.03.2023 between the three Companies is not in dispute. The parties to Scheme of Arrangement are as under:

- A.** Transferor Company or Amalgamating Company- ArcelorMittal India Private Limited (AMIPL)- Successful Resolution Applicant-Appellant
- B.** Transferee Company- AM Associates India Private Limited (AMAIPL)
- C.** Amalgamated Company- ArcelorMittal Nippon Steel India Limited (AMNSIL) (previously known as Esser Steel India Limited) (now known as ArcelorMittal Nippon Steel India Private Limited)-Corporate Debtor- Respondent No. 2

11. Learned Counsel for the Applicant has referred to Clause (g) of Paragraph-20 of the order dated 15.03.2023, which provides for reasons for continuing the pending proceedings. Clause (g) of Paragraph-20 is as follows:

“(g) All proceedings now pending by or against the Petitioner Company No.1/Transferor Company/ Amalgamating Company in relation to the Transferred Undertaking and Residual Business Undertaking to be continued by or against the Petitioner Company No.2/Transferee Company and Petitioner Company No.3/ Amalgamated Company respectively in accordance with the Scheme.”

12. The Applicant in its rejoinder affidavit has extracted relevant Clause, which provided that Residual Business Undertaking is transferred to Applicant and Residual Business Undertaking pertained to all assets, rights, business and liabilities of the Amalgamating Company (Appellant herein). It is useful to notice Paragraph-13 of the rejoinder, where Clause 1.4.18 has been extracted, which is as follows:

"1.4.18 "Residual Business Undertaking" means assets, rights, business, and liabilities of the Amalgamating Company /Transferor

Company as a part of its continuing business and operations listed out at Schedule A ('Residual Business') and includes:

(i) any and all assets, whether movable or immovable, whether present or future, whether tangible or intangible, leasehold or freehold, all rights, title, interests, covenants, undertakings, liabilities including continuing rights, title and interests in connection with the land and the buildings thereon, if any, whether freehold or otherwise, plant and machinery, whether leased or otherwise, hire purchase equipment(s), together with all present and future liabilities including contingent liabilities and debts appertaining thereto, pertaining to the Residual Business;

(ii)...

(iii) ...

(iv) ...

(v) any and all secured and unsecured debts, borrowings and liabilities (including contingent liabilities and external commercial borrowings), present or future, undertakings and obligations of the Transferor Company pertaining to the Residual Business;

(vi)...

(vii)...

(viii)..."

13. In Paragraph-14 of the rejoinder, the Applicant explaining the Scheme has stated following:

“14. Therefore, the strict contours of the phrase ‘Residual Business Undertakings’ have been clearly defined and, there can be no doubt that the same includes the subject-matter of the present Appeal-more specifically the issue of the direction to pay IRP Costs in the nature of RTU Charges that arose in the ESIL CIRP, as directed by Ld. Adjudicating Authority in the Impugned Order to the captioned Appeal.”

14. It is categorical case of the Applicant that Residual Business Undertaking includes subject matter of the Appeal, i.e. direction to pay IRP cost in the nature of RTU Charges. In the rejoinder affidavit, the Applicant specifically undertaken that all liabilities including contingent liability of the Appellant, i.e. ArcelorMittal India Pvt. Ltd. in relation to

residual business, such as RTU Charges, are deemed to be those of the Amalgamated Company, i.e. Applicant herein. Specific pleading in this reference has been made in Paragraph-16 of the rejoinder, which is as follows:

“16. It is submitted that the above makes it abundantly clear that any/ all liabilities including contingent liabilities of the Original Appellant (i.e. AMIPL) in relation to the Residual Business (i.e. arising, *inter alia*, from the ESIL CIRP such as the issue of RTU Charges) are deemed to be those of the Amalgamated Company (i.e. AMNS), namely the Applicant herein.

15. Learned Counsel for the Respondent has placed much reliance on the Financial Statements of AM Associates India Pvt. Ltd., which mentioned contingent liabilities of Rs.1300 crores. In reply to the said averments made in Paragraph-16 of the reply affidavit, in Rejoinder in Paragraph-29, the Applicant made following categorical pleading:

“29. That the contents of paragraph no. 16 to 20 are denied. It is submitted that the Respondent No. 1 is using clever drafting and selective/incomplete reference to the Scheme to mislead this Hon'ble Appellate Tribunal. The Respondent No. 1 has sought to rely upon irrelevant documents pertaining to a third-party entity that has no connection to the present Appeal. It is reiterated that the Scheme makes it abundantly clear that the AMIPL/ Appellant's business - present and future assets and liabilities, contingent liabilities, duties and obligations, etc. *inter alia* with respect to the subject-matter of the lis in the present Appeal stands transferred to and vested with the Applicant/Respondent No. 2 herein and further that it is the Applicant / Respondent No. 2 herein, and no other party, which is mandated in law to take over the prosecution of the captioned Appeal. The Respondent No. 1 herein/SIFL cannot be permitted to rely upon the documents pertaining to an unrelated third-party to convolute the issue and mislead this Hon'ble Appellate Tribunal, more specifically when the Scheme itself, as approved by the Ld. Adjudicating Authority and thus having the force of law, is clear and unambiguous. In any event, the so-called argument of the Respondent No. 1 does not take them anywhere inasmuch as the Applicant herein is readily and willingly undertaking that it has stepped into the shoes of the Original Appellant (AMIPL). It is reiterated that the reliance on the documents of a third-party can have no bearing/ relevance.

Further, it cannot be anyone's case that a party that has been voluntarily transposed as an Appellant can later object that it will not be bound by the directions/ decision of a court of competent jurisdiction."

16. In the application, there is categorical pleading undertaken by the Applicant that Applicant is readily and willingly undertaking that it has stepped into the shoes of the Appellant. It is submitted that reliance on third-party financial statements has no bearing.

17. When we look into the Scheme and the Clauses as relied by the Applicant and referred by the Respondent, it is clear that Residual Business of the Appellant was transferred to the Applicant and not to AM Associates India Pvt. Ltd. AM Associates India Pvt. Ltd., is a Transferee Company and Residual Business Undertaking means the assets, rights, business and liabilities of the Amalgamating Company, i.e. the Appellant is part of its continuing business operation, which rights, assets and liabilities have been undertaken by the Applicant, i.e. ArcelorMittal Nippon Steel India Pvt. Ltd., who has filed the application. When the Amalgamated Company clearly provided for prosecution of the pending proceedings by Transferee Company, as well as Amalgamating Company, whose bifurcation of proceedings has to be continued, which entity out of two is also clearly delineated, we are of the clear opinion that with respect to present Appeal, it is the Applicant, i.e. AMNSIPL, who is entitled to prosecute the present Appeal.

18. We, however, to avoid any fear or apprehension on the part of Respondent No.1 clarify and direct that the transposition of Applicant in

place of the Appellant shall be subject to taking by Applicant all liabilities and obligations arising from the impugned order dated 10.11.2020.

19. In view of foregoing discussions, we allow prayers of the Applicant made in IA No.1951 of 2025 with clarification and direction that the said transposition shall be subject to Applicant having undertaken to take all liabilities and obligations of the Appellant (ArcelorMittal India Pvt. Ltd.) as per the impugned order dated 10.11.2020. IA No.1951 of 2025 is disposed of accordingly.

**[Justice Ashok Bhushan]  
Chairperson**

**[Barun Mitra]  
Member (Technical)**

**NEW DELHI**

**26<sup>th</sup> February, 2026**

*Ashwani*

*I.A. No.1951 of 2025 in  
Company Appeal (AT) (Ins.) No.1038 of 2020*