

BOARD FOR INDUSTRIAL AND FINANCIAL RECONSTRUCTION
SPECIAL BENCH

M/S DECCAN CHRONICLE HOLDINGS LTD.

SUMMARY RECORD OF PROCEEDINGS OF THE HEARING HELD ON
18-02-2014 BEFORE THE BENCH CONSISTING OF
SHRI S.C.SINHA AND SHRI J.P.DUA, MEMBERS.

<u>Present</u>	<u>Name & Designation of the Representative S/Shri</u>
M/s Deccan Chronicle Holdings Ltd.	Alok Dhir, Advocate Nilesh Sharma, Advocate S.P.Singh, FCA
IDFC	Sushmita Banerjee, Advocate
Canara Bank	Ravi Kumar, AGM Ajay K.Jain, Advocate
J.M.Financial ARC (Ratanakar Bank & YES Bank)	M.K.Gupta
AXIS Bank	Jogendera Singh
India Bull Housing Finance Ltd.	Abhinav Vasisht, Sr. Advocate Ajay Rewal Sumesh Dhawan Anuj Malhotra, Advocate
Tata Capital Financial Services Ltd.	S.R.Jariwala, CA Arpan Sarkar, Legal Manager
IDBI Bank	Ramesh Harit, AGM
ICICI Bank	Rajesh Bohra, Advocate Sanjay Sharma, Legal Manager

Deccan Engg. Union

Neeraj Chaudhary, Advocate
R.K.Mishra, Emp. Representative

1.1 M/s. Deccan Chronicle Holdings Ltd., based on the Provisional accounts of the company for the financial year 2012-13 filed a reference on 26/8/2013 seeking registration as a sick Industrial company under Section 15 (1) of the SICA.

1.2 The Registrar, in accordance to the provisions of Regulation 19 of the BIFR Regulations, 1987 scrutinized the reference of the company and vide his letter dated 17/09/2013 granted 'conditional' registration to the company subject to their submission of Final Accounts for the year 2012-13.

1.3 However, on further scrutiny, and in view of the deficiencies found in the reference, the Registrar-BIFR, withdrew the 'conditional registration' granted to the company on 17/9/2013, and vide his letter dated 19/09/2013 'Declined' to grant registration to M/s. DCHL.

1.4 The company aggrieved by the Registrar's order, filed an appeal on 27/09/2013 before the Secretary-BIFR as per Regulations 19 (8) (1) of the BIFR Regulations 1987.

1.5 The said Appeal was disposed off by the Secretary-BIFR, and registration was once again Declined to the company vide his order dated 22/11/2013.

1.6 M/s. DCHL., in accordance to Regulation 19 (8) (2) of the BIFR Regulations 1987, on 29/11/2013, preferred an Appeal before the Hon'ble Chairman-BIFR.

1.7 Hon'ble Chairman-BIFR held an Appeal hearing in the matter on 12/12/2013. Vide his order dated 13/01/2014, Hon'ble Chairman-BIFR disposing of the Appeal stated

“.....The Company in appeal has not been able to demonstrate that the company registered under the Press and Registration Books Act, 1867 can be deemed to be a manufacturing activity under the IDR Act, 1951. The business of printing and running of newspapers is clearly not covered under the First Schedule of IDR Act, 1951 and thus not for admission to BIFR.

In view of the aforesaid reason and analysis of the grounds in appeal, I am not inclined to interfere with the order passed by the Secretary, BIFR dated 21.11.2013. As such the appeal filed by M/s. Deccan Chronicle Holdings Ltd., is dismissed”

2.1 Consequent to the rejection of their Appeal by the Chairman-BIFR, the petitioner filed a Civil Misc. Petition No. 1505/2014 and Writ Petition (Civil) No. 750 of 2014 on 21/01/2014, against the BIFR, before the Hon'ble High Court of Delhi, challenging Chairman's order dated 13/01/2014.

2.2 The Hon'ble High Court while disposing of the petition, set aside the orders issued by the Registrar, Secretary and the Chairman, and directed the BIFR to hear the matter. The directions of the Division Bench are reproduced below:

“We have heard the Learned Counsel for the Petitioner as well as the Learned Counsel for the BIFR. We have also heard the Learned Counsel for some of the Creditors including Canara Bank. After hearing the Counsel for the parties it has been agreed that the order dated 19.09.2013 passed by the Registrar-BIFR as also the order dated 20.11.2013 passed by the Secretary-BIFR and the order dated 13.01.2014 issued by the Chairman-BIFR in exercise of his powers

under Regulation 19 (8) of the BIFR Regulations, 1987 be set aside. It is ordered accordingly.

Serious issues have been raised with regard to the validity of the registration of the reference of the petitioner by virtue of the Registrar's order dated 17.09.2013. It has been agreed by the counsel for the parties that the issue of the validity of registration be considered by the Board. Consequently, we direct that the Board shall consider this question in the first instance. The learned counsel for the creditors submits that, they are entitled as a right to be present on the date on which the Board will hear this question. However for better safety they shall be moving an appropriate application on or before the date on which the Board is to hear the matter and that application would be heard simultaneously with the hearing of the above mentioned question. The matter be placed before the Board on 18.02.2014. We also hope that the Board shall endeavour to conclude the hearing and render a decision on the question as to whether the reference was correctly registered or not within a period of four weeks after hearing all the parties interested. The learned counsel for the petitioner has no objection to the creditors being heard.

Since one of the orders which has been set aside by us is that of the Chairman of the BIFR, it would be appropriate if the Chairman is not a member of the Bench which hears the matter on 18.02.2014 on the issue. We may it clear that we have not expressed any opinion on the merits of the case.

The writ petition stands disposed off in the above terms. All pending applications also stand disposed off."

3.1 In today's hearing (18.02.2014), the Ld Advocate of the company stated that the Registrar, BIFR in accordance to the provisions of BIFR Regulations, 1987 scrutinized the reference of the company and vide his letter dated 17.09.2013 granted 'conditional registration' to the company subject to submission of Final Accounts for the year 2012-13. However, Registrar, BIFR withdrew the 'conditional registration' granted to the company on 17.09.2013, and vide letter dated 19.09.2013 'Declined' to grant registration to the company. The Company filed an appeal before the Secretary/BIFR. The said appeal was disposed off and registration was once again declined to the

company. The company preferred an appeal before the Hon'ble Chairman/BIFR. Hon'ble Chairman dismissed the appeal filed by the company. Consequent to the rejection of the appeal by the Chairman/BIFR, the company filed a Civil Misc Petition and Writ Petition, against BIFR, before Hon'ble High Court of Delhi. The Hon'ble High Court while disposing the petitions set aside the orders issued by the Registrar/BIFR on 19.09.2013, Secretary/BIFR on 20.11.2013 and Chairman/BIFR on 13.01.2014. He further stated that the hearing notice issued by Registrar on 17.02.2014 is erroneous and not as per the direction of Hon'ble High Court of Delhi. The hearing notice should be on the matter of validity of Registration to M/s Deccan Chronicle Holdings Ltd and not on the matter of grant of Registration. He thereafter stated that they have received objection from Tata Capital Financial Services and Indiabull Housing Finance and requested the Bench for two weeks time to submit reply.

3.2 The Ld Advocate of Indiabull Housing Finance stated that the hearing notice issued by BIFR is not wrong. As per the order of the Hon'ble Delhi High Court, in the first instance the validity of Registration to be examined. It is an attempt by the company to delay the matter. He further stated that they have already filed their objection on the Registration.

3.3 The Ld Advocate of IDFC requested the Bench for three days time to file objection on the Registration.

3.4 The representative of JM Financial ARC/Ratnakar Bank/Yes Bank stated that they have not received any notice for today's hearing. He further stated that they have already filed objection on the Registration.

3.5 The representative of Axis Bank requested the Bench for three days time to file objection on the Registration.

3.6 The representative of IDBI Bank Ltd. stated that they are unsecured creditor of the company and not inclined to file any objection on the Registration.

3.7 The Ld Advocate of ICICI Bank stated that they have not received Form-‘A’ from the company. He requested the Bench for three days time to file preliminary objection on the Registration. He also request the Bench to direct the Company to provide a copy of Form-A to all concerned. The Ld Advocate of the company stated that by weekend i.e., 22.02.2014 he will provide a copy of Form-‘A’ to all concerned.

3.8 Having considered the submissions made in the hearing, materials on record, *the Bench observed that Hon’ble High Court of Delhi vide order dated 03.02.2014 has directed that the matter be placed before the Board on 18.02.2014 and the Board shall endeavor to conclude the hearing and render a decision on the question as to whether the reference was correctly registered or not within a period of four weeks after hearing all the persons interested. The Bench also observed that Registrar, BIFR has issued the hearing notice dated 17.02.2014 in compliance to the Hon’ble High Court of Delhi, Division Bench Order dated 03.02.3014.* Therefore, the Bench proceeds with today’s hearing to decide the validity of registration as per Hon’ble High Court Order dated 03.02.2014. Accordingly, the inadvertent error cited by company’s counsel in Registrar’s Notice is inconsequential. The Bench issued the following directions:-

- (i) Company to provide a copy of Form-‘A’ to all concerned by 22.02.2014.
- (ii) All concerned to file their objection on the validity of Registration to Board’s office, with a copy to the company by 27.02.2014. Those

who will not file their objection by 27.02.2014 forfeit their right to file objection.

- (iii) Company to file reply on the objections received from the creditors to Board's office, with a copy to all concerned by 14.03.2014.
- (iv) The Bench fixed the next date of hearing on **19.03.2014 at 11.00 hrs for final arguments on the validity of Registration.**

Let a copy of this order be circulated to all concerned.

(J.P.DUA)
MEMBER

(S.C.SINHA)
MEMBER

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