

## NCLAT restores IFIN's claim in Attivo with 39% vote share in lenders' panel

*IL&FS challenged this before the NCLAT which said it had already passed an earlier order "not permitting collapse of the Agreement"*



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The National Company Law Appellate Tribunal (NCLAT) has restored claims worth Rs 593 crore of IL&FS Financial Service (IFIN) along with its voting rights in the committee of creditors in the ongoing insolvency resolution process of Attivo Economic Zones.

Earlier the interim resolution professional of Attivo Economic Zones, a part of Kolkata-based Srei Infrastructure Finance (SIFL) and in the business of developing managing and marketing industrial parks, had on September 12, 2023, rejected the claims of the IL&FS group entity.

IL&FS challenged this before the NCLAT which said it had already passed an earlier order "not permitting collapse of the Agreement with regard to Attivo Economic Zone (Mumbai)".

Hence, "the very basis of issuing of letter dated 12.09.2023, rejecting the claim of IFIN is knocked out", said a two-member bench of the NCLAT which also consisted of Chairperson Justice Ashok Bhushan and Member (Technical) Barun Mitra.

"The letter dated 12.09.2023, issued by IRP is set aside. The claim of IFIN as admitted in the CIRP and voting share of 39.14% is restored in the CIRP of Attivo Economic Zone (Mumbai) Pvt. Ltd," said NCLAT

IFIN had filed a claim of about Rs 593 crore and the IRP of Attivo Economic Zone admitted it and allocated share of 39.14 per cent in the lenders' body Committee of Creditors (CoC).

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However, on September 12, 2023, IRP issued a letter rejecting IFIN's claim as a financial creditor of the Attivo Economic Zone. After rejection, SIFL became the sole member of the CoC with 100 per cent votes and also passed the resolution for liquidation.

This was challenged by IFIN, a 100 per cent subsidiary of Infrastructure Leasing and Financial Services Limited (IL&FS), before NCLAT.

In his reply, IRP said that IFIN's claim has been rejected based on the pleadings made by the IL&FS itself in another petition, where the IL&FS itself has pleaded that the transaction with Attivo was circuitous.

IFIN had disbursed Rs 305 crore to Attivo by way of two term loan agreements in 2017 and 2018, and the borrower defaulted on repayment.

Following this, IFIN had moved a plea to initiate insolvency proceedings against Attivo before the Kolkata bench of the National Company Law Tribunal (NCLT), which on June 9, 2023, admitted it and appointed an IRP suspending the board.

In the first CoC meeting on July 7, 2023, where the conversion of the IRP to RP was put to vote, IFIN voted against it, failing to get a majority vote in its favour.

In the meanwhile, to find a solution to the various complexities arising out of the loan transactions undertaken by IFIN and some third-party borrowers including Attivo, the newly appointed board of IL&FS formed after the

crisis took a decision to collapse (unwind) such transactions.

In pursuance of the same, IL&FS approached NCLAT with an application seeking approval to collapse certain transactions entered into by IFIN, including the transaction with Attivo and take necessary actions including necessary accounting entries in the books of the parties.

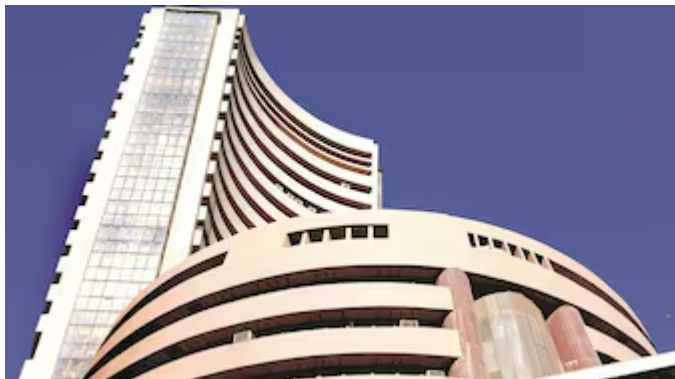
Considering that the outcome of the collapsing application would have a material impact on the CIRP of Attivo, IFIN vide letter dated August 17, 2023, inter alia informed the IRP about the said application and requested it to keep voting in the CoC in abeyance till such time it is adjudicated upon.

However, based on the collapsing application, IRP rejected IFIN's claim and ousted it from the CoC.

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