

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 2
(IB)-455(PB)/2017

IN THE MATTER OF:

Assets Care And Reconstruction Enterprise Limited Vs M/s. Forging Pvt. Ltd Petitioner Respondent
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Order under Section 7 of Insolvency & Bankruptcy Code, 2016 (Liq.)

Order delivered on 01.05.2024

CORAM:

JUSTICE RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT

SH. AVINASH K. SRIVASTAVA
HON'BLE MEMBER (TECHNICAL)

HEARING THROUGH HYBRID MODE (PHYSICAL & VC)

PRESENT:

For the Petitioner	: Sr. Adv. P. Nagesh, Adv. Karan Luthra, Adv. Naman Gowda
For the ex-management	: Sr. Adv. Ramesh Singh, Adv. Akshay Ringe, Adv. Dhananjay Gupta, Adv. Hage Nanya, Mr. K. Gambhir
For the Applicant	: Ms. Yashvi Aswani, Mr. Arunesh Grover, Mr. Rishi Bhargava, Mr. Dushyant Tiwari, Advocates in IA 3006/2021, Adv Ankit Sharma in Cont-petition 30 of 2022

ORDER

New IA-2044/2024

The prayer made in this application reads as follows:-

- a) Allow the extension and enlargement of Liquidation Period by 6 months, i.e., from 01.04.2024 to 30.09.2024 (both dates inclusive), and permit the Liquidator to complete the liquidation process of the CD by the extended date,*
- b) Approve all actions as may be taken by the Liquidator from 31.03.2024 (the last day of liquidation period as extended) as liquidation processes upto the date of order of this Hon'ble Tribunal, and /or*
- c) Pass any such other order/s as this Hon'ble Tribunal may deem fit in the light of present facts and circumstances.*

Mr. Sanjeev Deora, Ld. Counsel appeared physically and takes us through the contents of para 6 of the application which reads as follows:-

That the outstanding matters connected with the liquidation process of the CD are:

- a. *Matters pending in relation to legal cases which pertain to land owned by the CD in Faridabad, and which land was pooled with land of related parties of the CD and contracted for development by Pivotal Infrastructure Private Limited. Legal cases in the matter are pending before the Hon'ble High Court of Delhi at New Delhi, Hon'ble High Court of Punjab & Haryana at Chandigarh, and the Hon'ble Arbitral Tribunal, and are listed herein below:*

(i) *Before the Hon'ble Delhi High Court:*

OMP (Comm.) No. 529/2019- Objections u/s 34 of Arbitration and Conciliation Act, 1996 (Act) challenging the Arbitral Award dated 11.08.2019 by J. (Retd.) G.S. Singhvi, Sole Arbitrator. The next date of hearing is 22.04.2024.

(ii) *Before the Hon'ble Delhi High Court:*

OMP (Comm.) No. 522/2019- Objections u/s 34 of the Act filed by Related Parties of CD challenging the Arbitral Award dated 11.08.2019 by J. (Retd.) G.S. Singhvi, Sole Arbitrator, in which CD, through Liquidator, has been impleaded as the proforma party.

The ex-management of the CD alleges that the entire Group of Related Parties of the CD and the CD itself have been denied their share of developed area by the Developer.

The next date of hearing is 22.04.2024.

(iii) *Before the Hon'ble Punjab and Haryana High Court:*

- a) *Appeal filed by the CD as Regular Second Appeal vide Diary No. 795839 against the Order dated 07.09.2022 of the Hon'ble Additional District Judge, Faridabad, Haryana, in Civil Appeal No. 192 of 2019, being 2nd Appeal filed by the CD against the order dismissing the appeal of the CD against an order dismissing the challenge of the CD to the exercise of powers by the Developer.*
- b) *The Applicant/Liquidator had sent a Notice dated 19.10.2022 to the aforementioned Developer to seek handover of developed area falling to the share of the CD in the built-up Projects named "Royal Heritage" and "Faridabad Eye".*
- c) *The Associate Companies of the CD, namely, Daulatram Dharambir Auto Pvt. Ltd. and Chandra Auto Engineers Pvt. Ltd., having similar claims like the CD, had initiated proceedings under Section 11 of the Arbitration and Conciliation Act before the Hon'ble Delhi High Court (Arb. P. No. 1230/2021) seeking appointment of sole arbitrator and an Application under Section 9 of Arbitration Act (OMP(I) COMM No. 29/2020) seeking interim relief against the Respondents vis-a-vis their 10% share in the developed area has been filed. The CD was also arrayed as Performa Respondent in both the Applications and the CD, supporting the case of its Associated Companies, has prayed before the Hon'ble Delhi High Court for appointment of Arbitrator.*
- d) *The judgment in the matter of Associate Companies of the CD was rendered on 27.04.2023 and Justice Rajiv Sahai Endlaw, retired Judge of the Hon'ble Delhi High Court, had been appointed as Arbitrator to adjudicate on the disputes between the parties.*
- e) *The CD being a Performa Party in the Petition of its earlier Associate Companies (OMP No. 29/2020 and Arb P No.*

1230/2021), also filed its Reply before the Hon'ble Delhi High Court, joining the request of Associate Companies, and further sought relief to file its own claim of 10% Developed Area before the Arbitrator so appointed. The prayer of the CD that the relief if allowed to Associate Companies, be also extended to the CD as the CD is already a Performa Party, was denied by the Hon'ble Delhi High Court vide order dated 27.04.2023. However, the aforementioned order of the Hon'ble Delhi High Court dated 27.04.2023 allowed liberty to the CD to seek separate reference for its share of claim.

The CD has since filed a Petition under Section 11(5) Arbitration and Conciliation Act, 1996, before the Hon'ble Delhi High Court on 19.06.2023 (Arb. P. No. 855 of 2023) for seeking reference of dispute of non-handing over of 10% developed area by Pivotal to an Arbitral Tribunal, preferably to the Arbitral Tribunal comprising of Justice Rajiv Sahai Endlaw already constituted in the matter of Arbitral proceedings initiated by the Associated Companies of CD.

The aforesaid petition is now listed on 03.04.2024.

- (v) Interlocutory Applications pending before the Hon'ble NCLT, which have a direct effect on the conduct and conclusion of Liquidation proceedings, significant amongst others which pertain to,
- a. Recovery of Rs. 32.82 Lacs along-with interest from the date it was due to value date from Mr. Brij Bhan Bhadana, also subject matter of IA No. 3006/2021 pending adjudication before the Hon'ble NCLT. (This may be transferred/ assigned on Private Basis to Mr. Ashok Chopra in case the Interlocutory Application No. 824/2024 pending adjudication before the filed before the Hon'ble NCLT is allowed),
 - b. Amount of claim of Rs. 12.37 Crores on account of interest payable to FC, disputed by the contributories,
 - c. Amount of Rs.3896.24 Lacs in respect of Avoidance Transactions is inclusive of interest calculated upto 27.04.2019, and further interest has been claimed on the amount of avoidable transactions as may be determined by the Hon'ble NCLT and to be value dated upto the date of realization, and
 - d. That upto date the financial statements of the CD are to be finalized.

For the reasons mentioned above, we allowed the extension of liquidation period for another six months w.e.f. 01.04.2024 till 30.09.2024. The Liquidator is directed to complete the liquidation process well before the extended period.

IA-2044/2024 stands allowed and is disposed of accordingly.

CA-1436/2019, IA-108/2024 Old No. CA1881/2019, CA-2091/2019, CA-2092/2019, IA-3006/2021, Cont. P-30/2022, IA-5790/2023, IA-732/2023, IA-164/2024, IA-842/2024, RA-148/2023

At request and by consent, list all these IAs on **04.06.2024**. **Parties are directed to complete all the pleadings in all the applications and upload the same on the DMS.**

**Sd/-
(RAMALINGAM SUDHAKAR)
PRESIDENT**

**Sd/-
(AVINASH K. SRIVASTAVA)
MEMBER (TECHNICAL)**

01.05.2024
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