

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-V
(Division Bench)

Item No.-509

(IB)-264(PB)/2023

New IA/3316/2023, New IA/3472/2023, New IA/3481/2023, IA/3254/2023,
IA/3277/2023, IA/3280/2023, IA/2944/2023, IA/3048/2023, IA/2850/2023

IN THE MATTER OF:

Go Airlines (India) Limited

....Applicant

SECTION

U/s 10 of IBC, 2016

Order delivered on 06.07.2023

CORAM:

**SHRI MAHENDRA KHANDELWAL,
HON'BLE MEMBER (JUDICIAL)**

**SHRI RAHUL BHATNAGAR,
HON'BLE MEMBER (TECHNICAL)**

PRESENT:

For the Applicant

: Mr. Kevic Setalrad, Sr. Adv. with Mr. Pai Amit,
Mr. Nimish Vakil, Ms. Bhavana Duhoon,
Mr. Abhiyudaya Vats in New IA/3316/2023
Mr. Anandh Venkataramani, Mr. Saket Satapathy,
Mr. Anubhav Dutta, Mr. Priyal Shah, Mr. Sashank
Mehta in IA/3048/2023
Mr. Ameya Gokhale, Ms. Meghna, Mr. Vaijayant
Paliwal, Mr. Rishabh Jaisani, Mr. Harit Lakhani,
Ms. Megha Khandelwal, Advs. in IA/3277/2023 &
IA/3280/2023
Mr. Arun Kathpalia, Sr. Adv. with Ms. Meghna
Rajadhyaksha, Mr. Vaijayant Paliwal, Mr. Rishabh
Jaisani, Mr. Harit Lakhani, Ms. Megha Khandelwal,
Advs. in IA/2944/2023
Mr. Ankur Manindro, Mr. Ravi Nath, Mr. Rohan
Taneja, Mr. Aditya Kapur, Mr. Ankit Garg, Mr. Mehul
Jain, Advs.
Mr. Chinmoy Pradip Sharma, Mr. Ritesh Singh,
Mr. Ajay Kumar, Ms. Anchal Nanda, Mr. Hetram
Bishnoi, Mr. Navneet Singh, Mr. Irfan Haseib,
Mr. Babul, Mr. Krishnajyoti Deka, Advs. in
IA/2850/2023
Mr. Arvind Nayar, Sr. Adv. with Mr. Prayaya Goyal,

Mr. Chiranjivi Sharma, Ms. Apoorva Kaushik,
Ms. Neetika Gharma, Mr. Girish Shankar,
Mr. Shubham Pandey, Mr. Akshay Joshi, Adv. in
IA/3254/2023

For the Respondent :
For the RP : Mr. Ramji Srinivasan, Sr. Adv. with Mr. Vishnu
Sriram, Adv
For the CoC : Mr. Varghese Thomas, Mr. Fatena Chawla, Ms. Aditi,
Mr. Dheeraj Nair, Ms. Ridhima Sharma, Mr. Akhil,
Mr. Angad Baxi, Ms. Vishrutyi Sahai, Adv.

ORDER

New IA/3316/2023, New IA/3472/2023 & New IA/3481/2023:-

In all these applications, issue notice to the Respondent to file their reply and appearance and thereafter one week for rejoinder, if any. List all these applications on **04.08.2023**.

IA/3254/2023:-

Ld. Counsel for the Applicant in this IA/3254/2023 SMBC Afro Engine Lease B.V. V/s. Mr. Abhilash Lal urgently sought interim orders with respect to prayers (c) and (d) and sought one week time to file rejoinder to the reply of the Respondent. He has also, however, submitted that with respect to prayers (c) and (d) it may not be necessary for this Adjudicating Authority to consider his rejoinder and this Adjudicating Authority may pass orders on the basis of arguments put forth today. The interim order of the Hon'ble High Court dated 05.07.2023 in Writ Petitions W.P.(C) 6569/2023 and CM Nos. 25806-25807/2023, W.P.(C) 6626/2023 and CM Nos. 26011-26012/2023, W.P.(C) 7214/2023 and CM Nos. 28114-28115/2023 & 30784/2023, W.P.(C) 7369/2023 and CM Nos. 28705-28706/2023, W.P.(C) 7663/2023 & CM APPL. 29679-29680/2023, W.P.(C) 7773/2023 & CM APPL. 29997-29998/2023, W.P.(C) 7774/2023 & CM APPL. 30005-30006/2023, 32445/2023 and W.P.(C) 8088/2023 & CM APPL. 31155-31156/2023 was submitted by the Applicant and the same is taken on record. Ld. Counsel prayed for interim order in prayers (c) and (d) which are as below:-

- c. *Pending the hearing of the captioned Application, allow the Applicant's representatives to retain possession of the Engines and that the Respondent be directed to comply with its continuing obligations under the Lease Agreements (including, without limitation, to insure and to maintain the Engines as per the mandatory insurance and maintenance requirements under the Lease Agreements and applicable law);*
- d. *Pending the hearing of the captioned Application to restrain the Respondent/IRP from interfering with the Applicant's possession including attempting to remove the Engines bearing ESNs P771264 P772865, P772867 and P772868 from the SrvIBC owned aircraft to another aircraft and/or remove the Engine bearing ESN P771194 from the workshop elsewhere;*

Ld. Counsel for the Respondent/Resolution Professional has submitted that reply has been filed.

We have heard Ld. Counsels for the Applicant and the Respondent. The interim orders of the Hon'ble High Court dated 05.07.2023 have also been brought to our attention. It is noted that the Applicant was not one of the Petitioners, in the Writ Petitions filed before Hon'ble High Court in which order dated 05.07.2023 was passed.

The interim orders on the above prayers (c) and (d) are accordingly reserved.

Ld. Counsel for the Respondent has also submitted that he will file additional affidavit with a copy to the Applicant, to place on record subsequent developments since the last order of this Adjudicating Authority dated 15.06.2023. Ld. Counsel for the Applicant is at liberty to file a response to the additional affidavit.

List the matter on **04.08.2023**.

IA/3277/2023:-

Ld. Counsel for the Applicant in this IA/3277/2023 Bluesky 19 leasing Co. Ltd. V/s. IRP of Go Airlines (India) Pvt. Ltd. urgently sought interim orders with respect to prayers (1) and (6) and sought one week time to file rejoinder to the reply of the Respondent. He has also, however, submitted that with respect to prayers (1) and (6) it may not be necessary for this Adjudicating Authority to consider his rejoinder and this Adjudicating Authority may pass orders on the basis of arguments put forth today. The interim order of the Hon'ble High Court dated 05.07.2023 in Writ Petitions W.P.(C) 6569/2023 and CM Nos. 25806-25807/2023, W.P.(C) 6626/2023 and CM Nos. 26011-26012/2023, W.P.(C) 7214/2023 and CM Nos. 28114-28115/2023 & 30784/2023, W.P.(C) 7369/2023 and CM Nos. 28705-28706/2023, W.P.(C) 7663/2023 & CM APPL. 29679-29680/2023, W.P.(C) 7773/2023 & CM APPL. 29997-29998/2023, W.P.(C) 7774/2023 & CM APPL. 30005-30006/2023, 32445/2023 and W.P.(C) 8088/2023 & CM APPL. 31155-31156/2023 was submitted by the Applicant and the same is taken on record. Ld. Counsel prayed for interim order in prayers (1) and (6) which are as below:-

1. *To direct the Corporate Debtor/ Respondent to refrain from operating or flying the Subject Aircraft (detailed in paragraph 3 above) owned by the Applicant for commercial use;*
6. *Pending the hearing and final disposal of the present Application, to direct the Respondent to protect and maintain the Subject Aircraft (detailed in paragraph 3 above); and ensure that the Subject Aircraft and their engines and other parts are duly protected from any unauthorized access / removal / replacement / operation / use by the personnel of the Corporate Debtor and/or any other person.*

Ld. Counsel for the Respondent/Resolution Professional has submitted that reply has been filed.

We have heard Ld. Counsels for the Applicant and the Respondent. The interim orders of the Hon'ble High Court dated 05.07.2023 have also been brought to our attention. It is noted that the Applicant was not one of the Petitioners, in the Writ Petitions filed before Hon'ble High Court in which order dated 05.07.2023 was passed.

The interim orders on the above prayers (1) and (6) are accordingly reserved.

Ld. Counsel for the Respondent has also submitted that he will file additional affidavit with a copy to the Applicant, to place on record subsequent developments since the last order of this Adjudicating Authority dated 15.06.2023. Ld. Counsel for the Applicant is at liberty to file a response to the additional affidavit.

List the matter on **04.08.2023**.

IA/3280/2023:-

Ld. Counsel for the Applicant in this IA/3280/2023 Bluesky 31 leasing Co. Ltd. V/s. IRP of Go Airlines (India) Pvt. Ltd. urgently sought interim orders with respect to prayers (1) and (6) and sought one week time to file rejoinder to the reply of the Respondent. He has also, however, submitted that with respect to prayers (1) and (6) it may not be necessary for this Adjudicating Authority to consider his rejoinder and this Adjudicating Authority may pass orders on the basis of arguments put forth today. The interim order of the Hon'ble High Court dated 05.07.2023 in Writ Petitions W.P.(C) 6569/2023 and CM Nos. 25806-25807/2023, W.P.(C) 6626/2023 and CM Nos. 26011-26012/2023, W.P.(C) 7214/2023 and CM Nos. 28114-28115/2023 & 30784/2023, W.P.(C) 7369/2023 and CM Nos. 28705-28706/2023, W.P.(C) 7663/2023 & CM APPL. 29679-29680/2023, W.P.(C) 7773/2023 & CM APPL. 29997-29998/2023, W.P.(C) 7774/2023 & CM APPL. 30005-30006/2023, 32445/2023 and W.P.(C) 8088/2023 & CM APPL. 31155-31156/2023 was submitted by the Applicant

and the same is taken on record. Ld. Counsel prayed for interim order in prayers (1) and (6) which are as below:-

1. *To direct the Corporate Debtor/ Respondent to refrain from operating or flying the Subject Aircraft (detailed in paragraph 3 above) owned by the Applicant for commercial use;*
6. *Pending the hearing and final disposal of the present Application, to direct the Respondent to protect and maintain the Subject Aircraft (detailed in paragraph 3 above); and ensure that the Subject Aircraft and ~heir engines and other parts are duly protected from any unauthorized access I removal / replacement / operation / use by the personnel of the Corporate Debtor and/or any other person.*

Ld. Counsel for the Respondent/Resolution Professional has submitted that reply has been filed.

We have heard Ld. Counsels for the Applicant and the Respondent. The interim orders of the Hon'ble High Court dated 05.07.2023 have also been brought to our attention. It is noted that the Applicant was not one of the Petitioners, in the Writ Petitions filed before Hon'ble High Court in which order dated 05.07.2023 was passed.

The interim orders on the above prayers (1) and (6) are accordingly reserved.

Ld. Counsel for the Respondent has also submitted that he will file additional affidavit with a copy to the Applicant, to place on record subsequent developments since the last order of this Adjudicating Authority dated 15.06.2023. Ld. Counsel for the Applicant is at liberty to file a response to the additional affidavit.

List the matter on **04.08.2023**.

IA/2944/2023:-

Ld. Counsel for the Applicant in this IA/2944/2023 Jackson Square Aviation Ireland Limited V/s. Mr. Abhilash Lal IRP of Go Airlines (India) Limited urgently sought interim orders with respect to prayer (1) and sought one week time to file rejoinder to the reply of the Respondent. He has also, however, submitted that with respect to prayer (1) it may not be necessary for this Adjudicating Authority to consider his rejoinder and this Adjudicating Authority may pass orders on the basis of arguments put forth today. The interim order of the Hon'ble High Court dated 05.07.2023 in Writ Petitions W.P.(C) 6569/2023 and CM Nos. 25806-25807/2023, W.P.(C) 6626/2023 and CM Nos. 26011-26012/2023, W.P.(C) 7214/2023 and CM Nos. 28114-28115/2023 & 30784/2023, W.P.(C) 7369/2023 and CM Nos. 28705-28706/2023, W.P.(C) 7663/2023 & CM APPL. 29679-29680/2023, W.P.(C) 7773/2023 & CM APPL. 29997-29998/2023, W.P.(C) 7774/2023 & CM APPL. 30005-30006/2023, 32445/2023 and W.P.(C) 8088/2023 & CM APPL. 31155-31156/2023 was submitted by the Applicant and the same is taken on record. Ld. Counsel prayed for interim order in prayers (1) which are as below:-

- 1. To direct the Corporate Debtor I Respondent to refrain from operating or flying the Aircraft for commercial use;*

Ld. Counsel for the Respondent/Resolution Professional has submitted that reply has been filed.

We have heard Ld. Counsels for the Applicant and the Respondent. The interim orders of the Hon'ble High Court dated 05.07.2023 have also been brought to our attention. It is noted that the Applicant was not one of the Petitioners, in the Writ Petitions filed before Hon'ble High Court in which order dated 05.07.2023 was passed.

The interim orders on the above prayer (1) are accordingly reserved.

Ld. Counsel for the Respondent has also submitted that he will file additional affidavit with a copy to the Applicant, to place on record subsequent developments since the last order of this Adjudicating Authority dated

15.06.2023. Ld. Counsel for the Applicant is at liberty to file a response to the additional affidavit.

List the matter on **04.08.2023**.

IA/3048/2023:-

Ld. Counsel for the Applicant in this IA/3048/2023 Engine Lease Finance B.V. V/s. IRP of Go Airlines (India) Limited & Anr. urgently sought interim orders with respect to prayer (a) and sought one week time to file rejoinder to the reply of the Respondent. He has also, however, submitted that with respect to prayer (a) it may not be necessary for this Adjudicating Authority to consider his rejoinder and this Adjudicating Authority may pass orders on the basis of arguments put forth today. The interim order of the Hon'ble High Court dated 05.07.2023 in Writ Petitions W.P.(C) 6569/2023 and CM Nos. 25806-25807/2023, W.P.(C) 6626/2023 and CM Nos. 26011-26012/2023, W.P.(C) 7214/2023 and CM Nos. 28114-28115/2023 & 30784/2023, W.P.(C) 7369/2023 and CM Nos. 28705-28706/2023, W.P.(C) 7663/2023 & CM APPL. 29679-29680/2023, W.P.(C) 7773/2023 & CM APPL. 29997-29998/2023, W.P.(C) 7774/2023 & CM APPL. 30005-30006/2023, 32445/2023 and W.P.(C) 8088/2023 & CM APPL. 31155-31156/2023 was submitted by the Applicant and the same is taken on record. Ld. Counsel prayed for interim order in prayer (a) which are as below:-

- a. Direct Respondent No. I/Corporate Debtor to pass urgent interim directions and grant necessary permissions to allow the Applicant to depute an agency or an inspector to conduct inspection of the Four Engines.*

Ld. Counsel for the Respondent/Resolution Professional has submitted that reply has been filed.

We have heard Ld. Counsels for the Applicant and the Respondent. The interim orders of the Hon'ble High Court dated 05.07.2023 have also been brought to our attention. It is noted that the Applicant was not one of the

Petitioners, in the Writ Petitions filed before Hon'ble High Court in which order dated 05.07.2023 was passed.

The interim orders on the above prayer (a) are accordingly reserved.

Ld. Counsel for the Respondent has also submitted that he will file additional affidavit with a copy to the Applicant, to place on record subsequent developments since the last order of this Adjudicating Authority dated 15.06.2023. Ld. Counsel for the Applicant is at liberty to file a response to the additional affidavit.

List the matter on **04.08.2023**.

IA/2850/2023:-

Ld. Counsel for the Applicant in this IA/2580/2023 BOC Aviation (Ireland) Limited V/s. IRP of Go Airlines (India) Ltd. urgently sought interim orders with respect to prayer (III) and sought one week time to file rejoinder to the reply of the Respondent. He has also, however, submitted that with respect to prayer (III) it may not be necessary for this Adjudicating Authority to consider his rejoinder and this Adjudicating Authority may pass orders on the basis of arguments put forth today. The interim order of the Hon'ble High Court dated 05.07.2023 in Writ Petitions W.P.(C) 6569/2023 and CM Nos. 25806-25807/2023, W.P.(C) 6626/2023 and CM Nos. 26011-26012/2023, W.P.(C) 7214/2023 and CM Nos. 28114-28115/2023 & 30784/2023, W.P.(C) 7369/2023 and CM Nos. 28705-28706/2023, W.P.(C) 7663/2023 & CM APPL. 29679-29680/2023, W.P.(C) 7773/2023 & CM APPL. 29997-29998/2023, W.P.(C) 7774/2023 & CM APPL. 30005-30006/2023, 32445/2023 and W.P.(C) 8088/2023 & CM APPL. 31155-31156/2023 was submitted by the Applicant and the same is taken on record. Ld. Counsel prayed for interim order in prayer (III) which are as below:-

III. Restrain the Insolvency Resolution Professional of the Corporate Debtor from taking any steps to cannibalise the Aircraft of any of its parts;

Ld. Counsel for the Respondent/Resolution Professional has submitted that reply has been filed.

We have heard Ld. Counsels for the Applicant and the Respondent. The interim orders of the Hon'ble High Court dated 05.07.2023 have also been brought to our attention. It is noted that the Applicant was not one of the Petitioners, in the Writ Petitions filed before Hon'ble High Court in which order dated 05.07.2023 was passed.

The interim orders on the above prayer (III) are accordingly reserved.

Ld. Counsel for the Respondent has also submitted that he will file additional affidavit with a copy to the Applicant, to place on record subsequent developments since the last order of this Adjudicating Authority dated 15.06.2023. Ld. Counsel for the Applicant is at liberty to file a response to the additional affidavit.

List the matter on **04.08.2023**.

S/d-
(RAHUL BHATNAGAR)
MEMBER (T)

S/d-
(MAHENDRA KHANDELWAL)
MEMBER (J)