

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT- II)

Item No.105

(IB)-1718(PB)/2018

**IA-4683/2021, IA-769/2022, IA-1590/2022,
IA-4578/2022, IA-699/2023, IA-1700/2023,
IA-2218/2023, IA-3031/2023, IA-3198/2023,
IA-1872/2023, IA-1874/2023, IA-1875/2023, IA-4333/2023,
IA-4517/2023, IA-5139/2023, IA-5405/2023, IA-46/2024,
IA-2401/2024, IA-5365/2023**

IN THE MATTER OF:

Shiv Dayal Sharma & Ors.

... **Applicant/Petitioner**

Versus

Three C Projects Pvt Ltd.

... **Respondent**

Under Section: 7 of IBC, 2016 (CIRP)

Order delivered on 12.07.2024

CORAM:

**SH. ASHOK KUMAR BHARDWAJ
HON'BLE MEMBER (J)**

**SH. SUBRATA KUMAR DASH
HON'BLE MEMBER (T)**

PRESENT:

For the Applicant :

For the RP : Adv. Abhishek Anand, Adv. Karan Kohli, Adv. S. Sethi

For the Noida Authority : Adv. Rachit Mittal, Adv. Parish Mishra, Adv. Adarsh Srivastava

For the Respondent : Adv. Abhay Kaushik, Adv. Himani Babbar for R-9 and 21 in IA-1875/2023, Adv. Tanweer Alam and Mahjabeen Tanweer for R1 in IA 2552/2020, IA 2554/2020, IA 2631/2020, IA 2694/2020, IA 2825/2020 and for R2 in IA 3276/2020

Hearing Through: VC and Physical (Hybrid) Mode

ORDER

IA-1590/2022: There is no appearance on behalf of the Applicant. Nevertheless, Mr. Abhishek Anand, Ld. Counsel appearing for the RP pointed out that the moot issue which led to filing of the present application could be noted in the order dated 04.03.2024 passed in IA-3492/2021. In his submission, it was stated that the Applicant, who rendered construction

service to the Corporate Debtor was entitled to certain payment, and according to him, in lieu of such payment, certain shops were allotted to him. It was further submitted that for the purpose of his claim qua the shop he should have been treated as Creditor in other categories. In his submission, once certain amount was payable to the Applicant as consideration for the construction services rendered by him, the nature of the transaction would not change merely because the ex-management of the Corporate Debtor could offer it certain shops. He submitted that it is always money consideration which is involved in all sorts of transactions, whether it is financial transaction entered into by the Financial Creditor or the service rendered by the Creditors as Operational Creditor and these are the satisfaction of certain requirements stipulated in IBC and other relevant provision of law, which classifies the debt in different categories. Nevertheless, he fairly submitted that the issue raised herein has been dealt with by IA-3492/2021 decided on 04.03.2024 and the order passed in the IA has been challenged before Hon'ble National Company Law Appellate Tribunal by way of Company Appeal No. 646/2024, which is pending for adjudication.

As far as the present application is concerned, the only prayer made by the Applicant is that the Resolution plan should not be put to vote. Mr. Abhishek Anand, Ld. Counsel appearing for the RP pointed out that after filing of the captioned application, the Resolution Professional published fresh Form-G and thereafter, the interested bidders submitted fresh proposals, thus the present IA has become infructuous. However, since there is no appearance on behalf of the Applicant, **the IA is dismissed for default.**

IA-4683/2021, IA-769/2022, IA-4578/2022, IA-699/2023,
IA-1700/2023, IA-2218/2023, IA-3031/2023, IA-3198/2023,
IA-1872/2023, IA-1874/2023, IA-1875/2023, IA-4333/2023,
IA-4517/2023, IA-5139/2023, IA-5405/2023, IA-46/2024,
IA-2401/2024, IA-5365/2023: List on 18.07.2024.

Sd/-
(SUBRATA KUMAR DASH)
MEMBER (T)

Sd/-
(ASHOK KUMAR BHARDWAJ)
MEMBER (J)