

DIVISION BENCH

ITEM NO.113

NATIONAL COMPANY LAW TRIBUNAL

ALLAHABAD BENCH

PRAYAGRAJ

IA NO.550/2023, IA NO.238/2024 & IA NO.308/2024

IN CP (IB) No.262/ALD/2019

CORAM:

- 1. SHRI PRAVEEN GUPTA,
HON'BLE MEMBER (JUDICIAL)**
- 2. SHRI ASHISH VERMA,
HON'BLE MEMBER (TECHNICAL)**

Date of Order: 10th July, 2024

Attendance-Cum-Order Sheet of the Hearing.

NAME OF THE COMPANY	BANK OF INDIA V/S M/S GANGOTRI ENTERPRISES LTD
UNDER SECTION	7 IBC (IN CIRP)

COUNSEL APPEARED THROUGH PHYSICAL/ VIRTUAL HEARING:

Sh. Anand Chhibbar, Sr. Adv. assisted by : *For Applicant in IA No.238/2024*
Ms. Supriya Garg, Adv.

Sh. Saurabh Paul, Adv. : *For Applicant in IA No.550/2023*

Sh. Prabodh Kumar Bajpai, Adv. : *For Applicant in IA No.308/2024*

Sh. Mohd. Nazim Khan, PCS. with : *For the Resolution Professional*
Sh. Nilotpal Shyam, Adv.

ORDER

Ld. Counsels representing the parties are present through VC.

IA NO.238/2024

- 1.** Ld. Sr. Counsel representing the applicant states that this application has been filed for seeking exemption of submission of the bank guarantee to the extent of 5%. However, during the interregnum period, the applicant has decided to increase the amount of the bank guarantee from 5% to 10%, which has been considered in the CoC meeting held on 27.06.2024, and according to him, the said proposal has been accepted by the CoC with 100% voting. In view thereof, the Ld. Sr. Counsel seeks to withdraw the present application.

-Sd-

-1/3-

-Sd-

2. Ld. Authorized Representative for the RP states that an affidavit has been filed *vide* diary no.1306 dated 08.07.2024, where the minutes of the CoC meeting held on 27.06.2024 has been placed on record at page no.37, which says that the approval of the Committee of Creditors in its commercial wisdom be and is hereby accorded for Performance Bank Guarantee @ 10% of Fund Based Value of the Resolution Plan as sought by the SRA.
3. The result of the voting has been placed at page no.38. The Ld. Authorized Representative for the RP states that the said Resolution has been passed by 100% voting in terms of the members present and voting. At page no.38, it shows that the votes in favour have been casted to the extent of 36.75% and abstained was to the extent of 63.25%. Since there was no vote cast against the acceptance of the bank guarantee to the extent of 10%, according to the Ld. Counsel representing the RP, the Resolution is deemed to have been passed by 100% members, who were present and voted.
4. In view of the aforesaid background, the present IA No.238/2024 as prayed by the Ld. Sr. Counsel is dismissed as withdrawn.
5. The aforesaid affidavit filed *vide* diary no.1306 dated 08.07.2024 is also taken on record.
6. It is stated by the Ld. Sr. Counsel representing the Applicant that in pursuance of the approval of the CoC for accepting the 10% bank guarantee, he may be permitted to deposit the bank guarantee within a period of two weeks.

7. Ld. Authorized Representative for the RP states that he does not have any objection and 14 working days be granted for depositing the bank guarantee to the extent of 10% on the fund based value positively.
8. Let the bank guarantee in the aforesaid terms be deposited within the aforesaid period positively.

IA NO.308/2024

1. Ld. Counsel representing the Applicant Bank states that this application has become infructuous in the light of the fact that the IA No.238/2024 has been withdrawn by the Applicant.
2. IA No.308/2024 therefore, stands disposed off as having become infructuous.

IA No.550/2023

3. Let IA No.550/2023 be put up on 9th August, 2024. Pleadings if any be completed in the meantime.

-Sd-
(Ashish Verma)
Member (Technical)

-Sd-
(Praveen Gupta)
Member (Judicial)

10th July, 2024

Kavya Prakash Srivastava
(Stenographer)