

DIVISION BENCH

ITEM NO.1

**NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH
PRAYAGRAJ**

IA NO.257/2024 & IA NO.258/2024 IN CP (IB) No.40/ALD/2023

CORAM:

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

Date of Order: 13th May, 2024

Attendance-Cum-Order Sheet of the Hearing.

NAME OF THE COMPANY	ASSETS CARE & RECONSTRUCTION ENTERPRISE LTD. V/S KHATEMA FIBRES LIMITED
UNDER SECTION	7 IBC (IN CIRP)

COUNSEL APPEARED THROUGH PHYSICAL/ VIRTUAL HEARING:

Sh. Tanmay Saurabh Chatterjee with : *For the Applicant in both IAs*
Sh. Malak Bhatt, Adv.

Sh. Pulkit Deora with : *For the Res./ RP*
Sh. Himanshu Kohli, Adv.

Ms. Jasmine Damkewala, Adv. : *For the Financial Creditor*

ORDER

Ld. Counsels representing their respective parties are present through VC

IA NO.257/2024

- 1.** This application has been filed by the Managing Director of the Ex-Management seeking directions to be issued to the RP not to terminate the Lease Agreement entered into between by the Applicant and the Corporate Debtor for the premises situated at UPSIDC Industrial Area, Khatima Distt., Udham Singh Nagar, Uttrakhand where factory premises of the Corporate Debtor is situated, or in the alternative seeking passing of a direction to the

-Sd-

-Sd-

RP to allow the Applicant a period of five months for carrying out the shifting process of the Applicant's residence from the said premises.

2. The notice is issued in the present application to the RP, and the same is accepted by the Ld. Counsel appearing for the RP, thus waives service. Ld. Counsel representing the RP vehemently opposes the present application and states that the CIRP has been initiated in terms of an order dated 13.10.2023. He further says that this is the premises of the Corporate Debtor where factory of the Corporate Debtor is situated and the same premises are on lease from the UPSIDC as being a part of the larger industrial estate. The premises where the Ex-Managing Director is stated to be staying, is the guest house of the Corporate Debtor itself, which is not a residential accommodation, therefore there is no question of granting any relaxation in so far as the continuance of the residency of the Director/ Applicant is concerned.
3. Faced with this situation, the Ld. Counsel representing the Applicant however, states and gives an unconditional undertaking that he would be vacating the premises within a period of two weeks. He also states that no claim would be lodged in any manner whatsoever with respect to his stay during the aforesaid period of two weeks.
4. Based upon the specific undertaking given by the Ld. Counsel representing the Applicant, Ld. Counsel representing the RP on instruction from RP states that the said undertaking is acceptable and however should be adhered to by the Applicant.
5. In view of the above, the present application is disposed off with directions that the present premises would be vacated positively within a period of two weeks. No further extension in whatsoever manner would be considered to be granted. Further, there would not be any claims lodged whatsoever by the Applicant. It is also made clear that in case the undertaking is not adhered to, the RP would be competent to initiate contempt proceedings in

accordance with law. Further more, this order is only limited to his access to the present residence at the guest house.

6. With the aforesaid directions, the present IA No.257/2024 stands disposed off accordingly.

IA NO.258/2024

1. This application has been filed by a company i.e. M/s Wise Owl Beverages Pvt. Ltd. seeking directions to be issued to the RP not to terminate the Lease Agreement entered into between by the Applicant and the Corporate Debtor for the premises situated at UPSIDC Industrial Area, Khatima Distt., Udham Singh Nagar, Utrakhand from where the business of the applicant company is being run, or in the alternative seeking passing of a directions to the RP to allow the Applicant a period of five months for carrying out the shifting process of the Applicant's business from the said premises.
2. The notice is issued in the present application to the RP, and the same is accepted by the Ld. Counsel appearing for the RP, thus waives service. Ld. Counsel representing the RP vehemently opposes the present application and states that the CIRP has been initiated in terms of an order dated 13.10.2023. He further says that this is the premises of the Corporate Debtor and the same premises are on lease from the UPSIDC as being a part of the larger industrial estate. The premises from where the business of the applicant company is being run belongs to the Corporate Debtor, therefore, there is no question of granting any relaxation to allow the applicant company to run its business from the said premises.
3. Faced with this situation, the Ld. Counsel representing the Applicant however, states and gives an unconditional undertaking that he would be vacating the premises within a period of three weeks. He also states that no claim would be lodged in any manner whatsoever with respect to

-Sd-

-Sd-

continuance of business of the applicant company during the period of three weeks.

4. Based upon the specific undertaking given by the Ld. Counsel representing the Applicant, Ld. Counsel representing the RP states that the said undertaking is acceptable and however should be adhered to by the Applicant.
5. In view of the above, the present application is disposed off with directions that the present premises would be vacated positively within a period of three weeks. No further extension in whatsoever manner would be considered to be granted. Further, there would not be any claims lodged whatsoever by the Applicant. It is also made clear that in case the undertaking is not adhered to, the RP would be competent to initiate contempt proceedings in accordance with law.
6. The Applicant would also ensure that there is no inward supply of the materials to the premises. Further any outward shifting of the material during this permitted time period would be duly supervised by the RP by taking assistance of the Guards posted there.
7. With that directions, the present IA No.258/2024 stands disposed off accordingly.

-Sd-
(Ashish Verma)
Member (Technical)

-Sd-
(Praveen Gupta)
Member (Judicial)

13th May, 2024

Avaneesh Kumar Singh
(Stenographer)