

DIVISION BENCH
COURT - II

O-201

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

C.P. (IB)/1382(KB)2020
CONT.A. (IBC)/4(KB)2024

**CORAM: 1. HON'BLE MEMBER(J), SMT. BIDISHA BANERJEE
2. HON'BLE MEMBER(T), SHRI D. ARVIND**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 26TH JULY 2024

IN THE MATTER OF	UCO BANK VS DARJEELING ORGANICTEA ESTATES PRIVATE LIMITED
UNDER SECTION	IBC UNDER SEC 7

Appearance (via video conferencing/physically)

Mr. Shaunak Mitra, Adv.] for the RP
Mr. Dripto Majumdar, Adv.
Mr. Chandan Mehata, Adv.

Mr. Joy Saha, Sr. Adv.] for the ICICI Bank
Mr. Avishek Guha, Adv.
Ms. Arunika Dutta, Adv.
Mr. Kaustov De Sarkar, Adv.

ORDER

1. Ld. Sr. Counsel / Counsel for the parties present.
2. **CONT.A. (IBC)/4(KB)2024:**
 - a. Heard the Ld. Sr. Counsel / Counsel for the parties at length.
 - b. This application has been preferred alleging violation / disobedience of order dated 20.03.2024, rectified on 23.04.2024. It is alleged that despite the knowledge of the said order the Respondents Nos. 1 to 6 who are Managing Director, Executive Director, CFO of Respondent No. 1 Company willingly disobeyed the order by not releasing the amount directed to release in terms of the order dated 20.03.2024.
 - c. The Contempt Application was directed to be listed at the behest of Ld. Sr. Counsel Mr. Joy Saha appearing for the Respondent to submit that such Respondents / Alleged Contemnor 2 to 6 would face the ire of even higher officials in a meetings supposed to be held on 29.07.2024 for being hauled up in Contempt Proceedings by way of this present Petition.
 - d. The listing of this matter was vehemently opposed by Ld. Counsel Mr. Shaunak Mitra appearing for the Applicant / Resolution Professional.

- e. Ld. Sr. Counsel Mr. Joy Saha in course of hearing would submit that the alleged Respondent No. 2 to 6 in the order to purge themselves of the Contempt is ready and willing to tender the exact amount that was required to be released in terms of the order to be kept with the Dy. Registrar of this Bench. Since compliance of the order could not be made in view of the Appeal preferred by them before the Hon'ble NCLAT. Wherein, Hon'ble NCLAT has passed the following order:

“...parties may request the Adjudicating Authority to adjourn the contempt proceeding.”

- f. Ld. Counsel Mr. Mitra citing a few judgment submits that unless the entire amount was released in terms of the order dated 20.03.2024, the Respondents / alleged Contemnors cannot purge themselves.
- g. We have considered the rival contentions and in view of the fact that the disobedience seems to be at the level of the local officials and as also in view of the Appeal being preferred against order dated 20.03.2024 which was rectified on 23.04.2024, whereafter it was brought to the notice of Managing Director on 02.05.2024. With the tendering of the equivalent amount, we find no wilful disobedience on the part of the Respondent Officials, 2 to 6 as it is their local office at Kolkata which was dealing with the accounts of Corporate Debtor.
- h. Since no appropriate application has been preferred by the said officials we are unable to allow the alleged Contemnors to purge themselves of the Contempt only by tendering the amount for the purpose of retaining the same with the Dy. Registrar of this Tribunal.
- i. We are also aware of the directions of the Hon'ble Appellate Forum and therefore, the said alleged Contemnors may seek appropriate remedy before the Appellate Forum to permit them to tender the amount in terms of the order dated 20.03.2024 to form a part of estate of the Corporate Debtor or in the account of the Corporate Debtor.
- j. The Contempt application, therefore, stands adjourned to **12.08.2024**.

D. Arvind
Member (Technical)

Bidisha Banerjee
Member (Judicial)