

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.303

IA/1133(AHM)2022 in CP(IB) 397 of 2018

Order under Section 60(5) IBC r.w 195 & 340 of CrPC, 1973

IN THE MATTER OF:

Aditya Birla Fashion & Retail Limited
V/s

.....Applicant

Kiran chinubhai Shah RP for KSL And Industries Limited

.....Respondent

Order delivered on: 15/07/2024

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

Sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL

AHMEDABAD (COURT - II)

IA No. 1133 of 2022

In

CP(IB) No. 397 of 2018

(Filed under Section 60(5) of IBC, 2016 r.w Sections 195 and 340 of the Code of Criminal Procedure, 1973 and u/s 181, 182, 191, 193, 199, 200 and 209 of the Indian Penal Code)

IN THE MATTER OF:

Aditya Birla Fashion & Retail Ltd.
Having its registered office at
Piramal Agastya Corporate Park,
Building A, 4th & 5th Floor,
Unit Nos. 401,403, 501, 502,
L.B.S. Road, Kurla
Mumbai-400070

Also at: KH No.118/110/1, Building 2,
Divyashree Technopolis, Yemalur Post
Off Hal Airport Road,
Bangalore-560037

... Applicant

V/s

Mr. Kiran Shah
Resolution Professional
of M/s. KSL And Industries Ltd.
608, Sakar-1, Nr. Gandhigram Railway Station,
Opp: Nehru Bridge, Ashram Road
Ahmedabad-380009

... Respondent

Order pronounced on 15.07.2024

Coram:

**MRS.CHITRA HANKARE,
MEMBER (JUDICIAL)**

**DR.VELAMUR G VENKATA CHALAPATHY,
MEMBER (TECHNICAL)**

Present:

For the Applicant : Mr. Varun Sharma, Adv. a.w Mr. Akhil
Kukreja & Sanchita Chamoli, Adv.
For the Respondent : Mr. Arjun Sheth, Adv. a.w Mr. Kiran
Shah, RP in person

JUDGEMENT

1. Following prayers are sought by the applicant, the said prayers are reproduced herein under:
 - A. Record a finding of the facts of the response/ preliminary objections filed by the respondent/ non-applicant before this Hon'ble Tribunal; and/ or
 - B. Conduct a preliminary enquiry under Sections 340/195 of CRPC into the offences committed by respondent/ non-applicant and subsequently refer the parties to the concerned Magistrate, having jurisdiction; and/ or

- C. Make a complaint in writing to the concerned Magistrate for the offences committed by the respondent/ non-applicant; and/ or
- D. Direct taking into custody of the take the aforesaid culprit, respondent / non-applicant into custody; and/ or
- E. Pass an order of reference to the IBBI against the respondent / non-applicant, inter alia, for misconduct etc; and/ or
- F. Pass any further or other order which this Hon'ble Tribunal may deem fit and proper in the facts of the present case, in the interest of justice.
2. Heard the applicant and respondents. The applicant had filed IA no. 220/2022 in CP IB 397/2018. The applicant had entered in to a lease agreement and sought certain prayers for handing over the possession of the premises leased by the respondent. The contentions made in this application are the same as mentioned in IA no. 220 of 2022. The relevant IA has been disposed off as it becomes infructuous after the Resolution Professional agreed to take over the possession of the leased premises. The applicant has stated

that there were various offences committed by Resolution Professional by refusing to take over the stated property. The merits of the matter have already been examined in the IA 220 of 2022. In view of the same, this application is no more maintainable and is to be disposed of. The applicant had a long standing agreement with the corporate debtor who is now under CIRP, since 2019. Further, there are no more valid grounds to consider the issues raised in the application against the Resolution Professional and cannot be proceeded or adjudicated under Sec. 60 (5) of IBC.

3. In view of the facts as discussed hereinabove, we pass following order:-

ORDER

The application I.A. no. 1133 of 2022 is rejected and disposed of.

Sd/-

**DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)**

Sd/-

**CHITRA HANKARE
MEMBER (JUDICIAL)**