

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II

19. MA 860/2018
IA 2584/2023
IA 2764/2023 IN
C.P. (IB)/1561(MB)2017

CORAM:

SHRI ANIL RAJ CHELLAN
HON'BLE MEMBER (T)

SHRI KULDIP KUMAR KAREER
HON'BLE MEMBER (J)

**ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 28.06.2024**

NAME OF THE PARTIES:- **IA 2584/2023 Shehzad Hemani**
 IA 2764/2023 Santanu T Ray Liquidator of
 Conros Steels Private Limited
 IN THE MATTER OF
 Punjab National Bank
 V/s
 Conros Steels Private Limited

Section: Sec 60(5) Application under any other provisions – IBC U/s 7 of Insolvency and Bankruptcy Code, 2016

ORDER

MA 860 of 2018:- Counsel, Shyam Kapadia a/w Viyati Merchant and Yash Dhruva appeared for the Applicant/Liquidator through VC, and Counsel, Nausher Kohli a/w Niket Mehta appeared for Respondent no. 2. List this matter on **16.07.2024**.

IA 2584 of 2023:- Counsel, Nausher Kohli a/w Nikte Mehta appeared for the Applicant through VC. This Application has been filed by the Applicant, the suspended director seeking direction to the Resolution Professional/Liquidator to provide free and allow complete inspection of all documents relied upon by him in Miscellaneous Application no. 860 of 2018 in CP no. 1561 of 2017. The aforesaid M.A No.860 of 2018 is filed, inter alia, against the Applicant u/s 25(2)(j) read with Sections 43, 44, 66, and 67 of the Code, 2016 to declare certain transactions made by the Corporate Debtor as preferential, fraudulent and illegal.

The Counsel for the Applicant states that since the Applicant did not have a copy of the documents relied upon by the Respondent in M.A. No. 860 of 2018, the advocates of the Applicant vide its letters dated 24.04.2023 and 25.04.2023 sought to serve copies of all papers and proceedings filed in the matter to enable the Applicant to file the affidavit in reply in M.A 860 of 2018. The Respondent failed and/or neglected to respond to the aforesaid letter/requests of the Applicant.

The Counsel for the Respondent further submitted that the previous Bench of this Tribunal allowed setting aside the order of exparte against this Applicant subject to a cost of Rs.1 lakh and granting of the limited time of one week for filing his reply. This warranted the filing of an affidavit in reply in a hurry without perusing the necessary documents. Though the Counsel for the parties argued the matter and filed their written submissions, the application has been transferred to this Bench. Thus, the Applicant filed this application seeking the documents.

The Counsel for the Respondent vehemently objects to the application mainly on the ground that the reply and written submissions had already been filed and hence no purpose would be served by allowing this application at this stage other than further delaying the matter.

The Counsel for the Applicant points out that the Respondent in his M.A No. 860 of 2018 relied on the forensic report dated 05.05.2018 though the annexures forming part of the forensic audit report are not annexed with the Miscellaneous Application.

It is noticed that Respondent has not produced the entire forensic audit report though

relied upon it. The production of the entire report together with the annexures and making available a copy of the same is necessary to meet the ends of justice. Further, considering the nature of transactions sought to be declared as preferential, fraudulent, or illegal and also for effective adjudication of the subject matter it is necessary for the Respondent to produce all the documents relating to the alleged transactions. It is also necessary in the interest of justice to provide an opportunity for the Applicant to peruse all the documents relied upon by the Respondent to enable him to defend the Application and also enable this Tribunal to arrive at a proper decision.

In view of the same, we direct the Respondent to make available the entire forensic audit report (together with all annexures) and give access to other documents which are proposed to be relied upon by the Respondent in M.A 860 of 2018. **I.A No. 2584 of 2023 is allowed and disposed of** accordingly.

IA 2764 of 2023:- Counsel, Shyam Kapadia a/w Viyati Merchant and Yash Dhruva appeared for the Applicant/Liquidator through VC. List this matter on **16.07.2024**.

Sd/-
ANIL RAJ CHELLAN
Member (Technical)
ANKIT

Sd/-
KULDIP KUMAR KAREER
Member (Judicial)