

NATIONAL COMPANY LAW TRIBUNAL

COURT ROOM NO. 1,

MUMBAI BENCH

Item No. 59

CA 181/2022 CA 190/2022 CA 191/2024 CA 204/2024 IN CP/3638(MB)2018

CORAM:

SH. PRABHAT KUMAR

JUSTICE V.G. BISHT (Retd.)

HON'BLE MEMBER (TECHNICAL)

HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON **27.08.2024**

NAME OF THE PARTIES: **UNION OF INDIA V/s INFRASTRUCTURE
LEASING AND FINANCIAL SERVICES LTD. &
ORS.**

Section 241- 242 of the Companies Act, 2013 and Rule 11 of the NCLT

ORDER

Adv. Drishti Das, Adv. Virt Shah i/b Cyril Amarchand Mangaldas for the Applicant in CA 181 & CA 190 of 2022 present. Adv. Siddharth Joshi a/w Devesh Kavita, Adv. Tejal Kale i/b Rajani Associates for the Applicant in CA 191 of 2024. Ad. Farnaaz Karbhari, Adv. Abhirup D. Adv. Ishan Duggal i/b HAS Advocates for the Respondent No.9 in CA 181 of 2022 and Respondent No.12 in CA 190 of 2022. Adv. Drishti Das, Adv. Virt Shah i/b Cyril Amarchand Mangaldas for the Respondent No.3 in CA 204 of 2024 present. Adv. Siddharth Joshi a/w Devesh Kavita, Adv. Tejal Kale i/b Rajani Associates for the Respondent No.8 present.

CA 181/2022

The Respondent Nos.1, 2, 3 and 11 have not file the Reply, however, the Counsel for the Respondent No.11 submits that they have already filed the Reply and undertake to serve it again on the IL&FS. The Respondent No.1 to 3 had given last opportunity to file the Reply failing which the matter shall be proceeded with ex-parte.

List this matter on Board on **27.09.2024**.

CA 190/2022

The Respondent Nos.1, 2, 3, 6, 7, 13, 14, 16 and 19 have not filed the Reply. The Ld. Counsel for the Respondent No.16 submits that he has already filed the Reply and undertake to have it serve again to the IL&FS. Rest of the Respondents are directed to file Reply. Last opportunity is granted to file the Reply. List this matter on Board on **27.09.2024.**

CA 191/2024

1. This is an Application filed by Arun Saha Original Respondent No.3 in the captioned Petition and seeking following reliefs –
 - a. That pending the hearing and final disposal of the Petition, this Tribunal be pleased to allow the Applicant to pay his income tax dues for the Financial Year 2022-2023 (A.Y.2023-2024) from the Applicant's Bank account 028010100044837 maintained with Respondent No.2;
 - b. That pending the hearing and final disposal of the Petition, this Hon'ble Tribunal be pleased to allow the Applicant to pay statutory dues for future years that may become due and payable, upon the Applicant submitting requisite proof of income before this Tribunal;
 - c. Interim/ad-interim relief in terms of the prayer clause above;
2. The Applicant has filed the present Application seeking orders from this Hon'ble Tribunal permitting the Applicant to pay his Income Tax dues for Financial Year 2022-2023 [Assessment Year 2023-2024] and further seeking liberty during the pendency of the captioned Petition, to pay statutory dues for future years that may become due and payable, upon the Applicant submitting requisite proof of income before this Tribunal.
3. The Applicant is required to pay his statutory dues to the Income Tax Department for the F.Y. 2022-2023 to the tune of approximately Rs.30,74,510/- (Rupees Thirty Lakhs Seventy-Four Thousand Five Hundred and Ten Only) as on April 30, 2024.

At present, an interest at the rate of 1% per month is also being accrued to the Applicant towards the delay in clearing the aforesaid statutory dues.

4. The total income of the Applicant for FY 2022-2023 is Rs 71,96,618/- (Rupees Seventy-One Lakhs Ninety-Six Thousand Six Hundred and Eighteen Only) and the income of his spouse, Mrs. Sulagna Saha which has been clubbed with the income of the Applicant for F.Y. 2022-2023 under Section 64 of the Income Tax Act, 1961, is 44,87,406/- (Rupees Forty-Eight Lakhs Forty-Seven Thousand Four Hundred and Six Only). The income tax payable has been calculated as per the new tax regime as specified under Section 115BAC of the Act.
5. The account from which the Applicant intends to pay his pending statutory dues for the F.Y. 2022-2023 is his Primary Bank Account with Respondent No.2 i.e. Axis Bank Account bearing number 028010100044837.
6. Heard the Counsel for the Applicant as well as Union of India.
7. The Union of India is pointed out that the Applicants taxable income includes income earned by his wife in terms of provisions on the income tax law and the income tax liability attributable to such income should not be allowed to be paid out of the monies lying in the bank account of the Applicant. The Applicant has placed on record the details of income earned by him as well as income accrued to his wife but taxable in his hands under the clubbing provisions. The Applicant has also placed on record the tax attributable on both components of income. On perusal of this we find that a sum of Rs 11,35,070/- is attributable to the income earned by his wife but taxable in the hands of the Applicant. Since the income earned by his wife but the taxable in the hands of the Applicant has been credited to the bank account in the name of wife, we find the contention of the Union in this respect reasonable. Accordingly, we direct Respondent No.2 Axis Bank to pay a sum of Rs.19,39,440/- from the Applicant's bank account 028010100044837 maintained with them towards income tax dues for assessment year 2023-24. The

Respondent No.2 also allow the payment of interest, which has since become due after 30th April 2024 on the said amount of tax. The Applicant shall arrange to deposit the remaining amount of Rs.11,35,068/- along with interest accrued thereon after 30th April 2024 from the account of his wife or some other account not belonging to him. For any statutory dues becoming due and payable for the subsequent years the applicant shall be at liberty to file appropriate application for appropriate direction from this Bench. In view of the above, CA 191 of 2024 is **allowed** and **disposed of**.

CA 204/2024

Ld. Counsel for the CMA & IL&FS seeks time to file the Reply. List this matter on Board on **27.09.2024**.

-sd-

PRABHAT KUMAR
MEMBER (TECHNICAL)

Rehan Shaikh

-sd-

JUSTICE V.G. BISHT
MEMBER (JUDICIAL)