

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

104. I.A. 2430/2023

In

C.P. (IB) 935 (MB) 2020

CORAM: MS. LAKSHMI GURUNG, MEMBER (J)
SH. CHARANJEET SINGH GULATI, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **12.07.2024**

NAME OF THE PARTIES: Edelweiss Asset Reconstruction Company
Limited

V/s

Smaaash Entertainment Pvt Limited.

Appearance

For Applicant: Adv. Gaurav Joshi a/w Adv. Kunal Kaul i/b JSA

For Respondent : Adv. JP Sen a/w Malhar Zatia, Adv. Nidhi
Chauhan, i/b Suri Hahoti & Associates for R-1
Mr. Shripal Morakhia present though VC.
Mr. Amir Arsiwala, a/w Adv. Rajshree Dhole i/b
Samatva Legal Associates for R-2.
Adv. Cyrus Ardeshir, Adv. Rohan Agarwal i/b
Parth P. Shah for R-8.

SECTION 7 OF THE IBC, 2016

ORDER

Hearing Through: Virtually and Physical (Hybrid) Mode

I.A. 2430/2023

R-1 is present through VC and submits that due to open heart surgery in May 2023 he is unable to take control of business affairs and has resigned from all companies. But he would be appearing in person on the next date.

It has been informed that R-2 is presently out of India and is expected to return on 17.07.2024 hence his presence be exempt today. Request considered. Exemption granted for today.

Learned Counsel for the parties agree that the presence of third-party Nayan Babariya would be necessary and useful in resolving the issue.

Issue Notice to Nayan Babariya at following address provided by the RP:-

C/o Infinity Infoway Pvt. Ltd. (India)
Vishwakarma Society, Near Vavdi Water Tank
150 Feet Road, Rajkot -360004
Mobile:- 7600799900 and 9998395616
E-mail:- info@infinityinfoway.com

Registry is directed to make available the copy of the notice, postal receipt and track report/ acknowledgement before the next date of hearing.

The applicant is also directed to serve the notice on the Respondent through all possible moves including E-mail and WhatsApp.

We have already held that brand "Smaaash" belongs to the Corporate Debtor and all social media accounts connected with Smaaash should be returned back to the Corporate Debtor and direction was given to the Respondents No.1, 2 and 8 to take steps accordingly and to file compliance affidavit.

As per the affidavit dated 25.06.2024 filed by R-8 states as follows:-

Smaaash HO: Facebook Page
Login Credentials:
ID: smaaashmumbai@gmail.com
Password: Smaaash@007 (fb password)

It is stated in the affidavit that the *"that the said E-mail ID and password has already been identified and shared with the*

Applicant. However, due to a two-factor authentication process, the said Facebook page cannot be accessed without a Google authenticator code.”

It was further stated that Google Authenticator Code is generated/associated with a physical handheld device which cannot be located/traced.

As Smaaash H.O. Facebook page belongs to the Corporate Debtor the same should be returned back to the Corporate Debtor. Therefore, Respondent No.8 alongwith R-2 and R.P. shall approach Facebook/Google for the authentication of the said Facebook page to ensure smooth transfer of Smaaash H.O. Facebook to the Corporate Debtor within one week.

The Facebook and Google team are requested to consider the facts of the present case and allow the transfer of Smaaash HO: Facebook to the Corporate Debtor without insisting for two-factor authentication process or by way of any workable solution.

As far as Mobile Number 8377003667 is concerned, it is stated that the said telephone number was registered as an automated call-centre as a VMN (virtual mobile number). During the course of hearing, it was submitted that respondents are not using the said number anymore and suggested that a new VMN number can be obtained from service provider after fresh agreement. RP to examine the said suggestion.

The affidavits filed by respondents would be considered on next date. **R-1, R-2 and R-8 to remain physically present** on the next date. RP to appear physically or through VC.

List this matter for further consideration on **29.07.2024** at **12:30** PM.

Sd/-
CHARANJEET SINGH GULATI
Member (Technical)
--Saharukh--

Sd/-
LAKSHMI GURUNG
Member (Judicial)