

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II

28. **IA 611/2021-43- Preferential transaction**
For seeking appropriate directions:- IA 921/2020 IA 592/2022
IA 864/2022 IA 1201/2022
Company Appeal/24/2022
Company Appeal/26/2022
IA 1383/2022 IA 534/2023
Company Appeal/16/2023
IA 1814/2023 IA 720/2020
IA 2876/2024 IA 2879/2024
IN C.P.(IB) 1202/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 20.06.2024**

NAME OF THE PARTIES: - IA 2876/2024 Vineet K Chaudhary
IA 2879/2024 Vineet K Chaudhary
IN THE MATTER OF
KSS Petron Pvt. Ltd.

Section: Sec 60(5) U/s 10, 42 of Insolvency and Bankruptcy Code,2016.

ORDER

IA No. 2876/2024:- Adv. Sandeep Bajaj appeared for the Applicant/Liquidator.

The present application has been filed by the Liquidator for placing on record the modified/updated list of stakeholders- version 6 dated 02.03.2024 which is annexed with the application as Exhibit (A) in the application. The said report is taken on record. No order is called for. With the aforesaid observation, **IA No. 2876/2024** is **allowed** and **disposed of**.

IA No. 2879/2024:- Adv. Sandeep Bajaj appeared for the Liquidator. The present application has been filed by the Liquidator under Section 33 (5) of the Insolvency and Bankruptcy Code, 2016 seeking permission to initiate legal proceedings against the Bhubaneshwar Expressways Private Limited (“BEPL”). It is stated in the terms of the agreement dated 03.12.2014, the Corporate Debtor now in liquidation advanced a loan of Rs. 35,00,00,000/- to the BEPL in the form of Inter Corporate Deposits which was repayable within a period of 5 years along with interest @ 13%. The period of 5 years has expired but the money has not been returned by the BEPL and, therefore, there is a need to initiate legal proceedings.

Having heard the Counsel for the Liquidator and after going through the averments made in the application, we deem it appropriate to grant the necessary permission to the Liquidator under Section 33(5) of the IB Code, 2016. Accordingly, we allow the application granting permission to the Applicant/Liquidator under Section 33(5) of the IB Code, 2016 to initiate appropriate proceedings as per law. **IA No. 2879/2024 is allowed and disposed of** in the aforesaid terms.

IA No. 1383/2022:- Adv. Sandeep Bajaj appeared for the Liquidator. The present application has been filed by the Liquidator seeking directions against the Respondents to refund an amount of Rs. 1,15,33,473/- or in the alternative,

permission may be granted to the Applicant/Liquidator to challenge the revised Show Cause Notices dated 12.10.2021 issued by the Respondents for the years 2013-2024, 2014-2015, 2015-2016 and 2016-2017. It has been pointed out by the Counsel for the Applicant/Liquidator that Respondent No. 2 passed a detailed order dated 11.08.2017 whereby a refund of Rs. 1,15,58,421/- was held to be due to the Corporate Debtor from the department. Accordingly, Respondent No. 2 also issued a refund voucher bearing No. 170616 dated 18.08.2017 for an amount of Rs. 1,15,33,473/-. However, subsequently, Respondent No. 1 issued a letter dated 17.09.2021 directing Respondent No. 2 to re-submit the refund proposals after rectifying the said elapses. According to the Counsel for the Applicant, once the issue was settled and a refund order was ordered to be issued, Respondent No. 1 had no authority to re-open the issue. Under the circumstances, Counsel for the Applicant has requested that either the Respondents be directed to refund the amount of Rs. 1,15,33,473/- or the Liquidator may be permitted to challenge the revised Show Cause Notice dated 12.10.2021.

Having considered the matter, we are of the considered view that since a revised Show Cause Notice dated 12.10.2021 has been ordered to be issued which may have some bearing on the refund order earlier passed, it would be appropriate if permission is granted to the Application/Liquidator under Section 33 (5) of the

Insolvency and Bankruptcy Code, 2016 to challenge the revised Show Cause Notice dated 12.10.2021. Accordingly, we allow the application by granting permission to the Applicant/ Liquidator under Section 33 (5) of the Insolvency and Bankruptcy Code, 2016 to challenge the revised Show Cause Notice dated 12.10.2021 and to take all necessary steps in this regard. Therefore, **IA No. 1383/2022** is **partly allowed and disposed of** in the aforesaid terms. List **all other pending applications** on **18.07.2024** for hearing

Sd/-

ANIL RAJ CHELLAN
Member (Technical)

SUSHIL

Sd/-

KULDIP KUMAR KAREER
Member (Judicial)