

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH

COURT III

109. I.A. 2783/2022

I.A. 1335/2023

I.A. 4751/2023

IN

C.P.(IB)-2640(MB)/2019

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 **26.04.2024**

NAME OF THE PARTIES: Rattan India Finance Pvt Ltd

V/s.

Cox & Kings Ltd

Appearance:

Adv. Nausher Kohli a/w Adv. Pulkit Dutt Tiwari for the Liquidator, Adv. M.S.
Bhardwaj for Respondent in I.A. 2783/2022, Adv. Ruchita Jain a/w Niyati
Nerchant for Respondent in 1335/2023

SECTION 7 OF IBC, 2016

ORDER

HEARING THROUGH: VC AND PHYSICAL (HYBRID) MODE

I.A. 2783/2022

1. Ld. Counsel for the Respondent has brought to our attention one deficiency letter dated 30.10.2023. However, the deficiency pointed in the letter is merely recovery of Rs. 1,11,02,591/- in relation to SEIS claim of Financial year 2015-16, 2017-18 pending EPCG Authorization. It was further stated that any representation in this regard may be submitted to this tribunal within 10 working days.

2. Ld. Counsel for the Liquidator submits that they have not replied to the deficiency letter on the ground that no deficiency has been pointed out in the letter and only demand for Rs 1,11,02,591/- has been raised and they are willing to make a statement that the said amount may be deducted from the amount due to the Corporate Debtor. However, we direct the liquidator to file a representation in response to the deficiency letter dated 30.10.2023 and department is directed to consider the same in accordance with law within 4 weeks. List on **27.06.2024**.

I.A. 1335/2023

1. The above application has been filed by Liquidator seeking following reliefs:
 - a. *Direct the Respondent to permit the applicant to access and take into his control and custody the cash assets available in the Subject Bank Accounts maintained with them by the Company and share the statement relating to the subject bank accounts with the Applicant;*
 - b. *Direct the Respondents to permit the Applicant to access and take into his control and custody the cash assets available in such other bank accounts, as may be maintained with them by the Company, in addition to the subject bank accounts;*
2. Axis bank has filed Reply and submitted that the said accounts of the Corporate Debtor were under lien due to letter received from GST Department vide reference No. DC/E-643/LTU-204/2019-20/B-546DTD03122019. It was further noted that as per the notice dated

03.12.2019, lien has been marked for an amount of Rs. 5.99 crores in the account.

3. We note that the lien was marked on 03.12.2019 and we also note that the Corporate Debtor was admitted into CIRP 21.10.2019 clearly the facts reveal that the lien was marked post moratorium period and same cannot be sustained.
4. Despite notice, none has appeared for the GST Department. We, therefore, direct the R-1 i.e. Axis Bank to release the account in favour of the Liquidator.
5. R-2 was served by hand delivery on 07.10.2023 and by post on 26.09.2023 and by email on 08.10.2023. Despite service, none appeared for the R-2 and hence we are constrained to move on the basis of the material available on record.
6. We note that the liquidator had sent a letter dated 31.01.2023 to R-2 requesting for release of the deposits held by the Corporate Debtor in Bank of India. In response to which R-2 had replied vide email dated 03.02.2023 that there are 25 bank accounts which were under lien marked by various consumer disputes forum like State Commission, District Commission.
7. It is a trite law that during the liquidation, the liquidator is entitled to collect all the assets of the Corporate Debtor for the purpose of the

distribution to the stakeholders in accordance with the provision of Section 53 of the Code. Therefore, we direct the R-2 to release control and custody of the bank account as mentioned in Exhibit –F or any other accounts of the Corporate Debtor maintained with the R-2 within two weeks from the date of uploading the order.

8. With the above directions, I.A. 1335/2023 is **disposed of**.

I.A. 4751/2023

1. Ld. Counsel for the Respondent i.e. Korean Air Lines Company Limited submits that the amount has already been agreed to be released to the Liquidator. However, they are in the process of preparing and executing the settlement agreement and to release the agreed amount. At his request on **27.06.2024**.

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

Sd/-
LAKSHMI GURUNG
Member (Judicial)