

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT- I) CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON 28.06.2024 THROUGH PHYSICAL HEARING

PRESENT: HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

IN THE MATTER OF : Meka Infrastructure Pvt. Ltd.
Vs
Dhiren Shathilal Shah

MAIN PETITION NUMBER : CA(CAA)/1026(CHE)/2019

(IA/MA) APPLICATION NUMBERS

IA(CA)/38(CHE)2024, IA/758/2021, MA/1142/2020

S.NO.	NAME (IN CAPITAL)	DESIGNATION REPRESENTATION BY WHOM	SIGNATURE
1	Ravi Rajagopalan	Counsel for the Applicant in IA(CA)/38(CHE)2024 and MA/1142/2020	<i>[Signature]</i>
(2)	Ravi Rajagopalan	Counsel for the Respondent in IA/758/21	<i>[Signature]</i>
	Himanshu Vidhani	Counsel for the Applicant in IA/758/2021	<i>[Signature]</i>
		Counsel for the Respondent in MA/1142/2020 & IA38/2024	<i>[Signature]</i>
	Dhiren S. Shah	Observer of Meka	<i>[Signature]</i>

[Signature]

[Signature]

402. CA(CAA)/1026(CHE)/2019

COMMON ORDER

IA(CA)/38(CHE)2024

Present: Shri. Ravi Rajagopalan, Ld. Counsel for the Applicant.
Shri. Shri. Himashu Vidhani, Ld. Counsel for the Respondent.
Shri. Dhiren S. Shah, Observer of Meka Dredging.

IA/758/2021

Present: Shri. Himashu Vidhani, Ld. Counsel for the Applicant.
Shri. Ravi Rajagopalan, Ld. Counsel for the Respondent.
Shri. Dhiren S. Shah, Observer of Meka Dredging.

MA/1142/2020

Present: Shri. Ravi Rajagopalan, Ld. Counsel for the Applicant.
Shri. Shri. Himashu Vidhani, Ld. Counsel for the Respondent.
Shri. Dhiren S. Shah, Observer of Meka Dredging.

This application has been filed by the Applicant seeking following reliefs:

- a. *Direct that the portion of the approved Scheme being Clauses 4.2, 4.4.1, 4.4.2 and 4.4.3 referencing to "date of approval of Scheme" be deemed and read as date on which the status of the Corporate Debtor becomes active in the records of the Registrar of Companies and the payment dates to the creditors under the said Clauses shall consequently stand modified accordingly;*
- b. *Direct that in so far as the aforesaid clauses are concerned, the Scheme Proponents may not be treated as being default to implementing the Scheme as approved;*
- c. *Grant such other reliefs or make such other Orders that this Hon'ble Tribunal deems fit and proper.*

Ld. Counsel for the Applicant has submitted two status reports, the last one being filed in March, 2024. Ld. Counsel seeks time to take instructions from the Scheme Proponent as regards the implementation of the scheme and payment to the Liquidator.

Ld. Counsel for the Respondent state that the Scheme under Section 230 of the Companies Act is not only a contract but it has statutory force. He has quoted *SK Gupta v. KP Jain*, Supreme Court judgment in his report

“12....The scheme when sanctioned **does not merely operate as an agreement between the parties** but has statutory force and is binding not only on the company but even dissenting creditors or members, as the case may be. The effect of the sanctioned scheme is “to supply by recourse to the procedure thereby prescribed the absence so that individual agreement by every member of the class to be bound by the scheme which would otherwise be necessary to give it validity” [see J.K. (Bombay) Pvt. Ltd. v. New Kaiser-i-Hind Spg. & Wvg. Co. Ltd. [AIR 1970 SC 1041 : (1969) 2 SCR 866 , 891 : (1970) 40 Com Cag 689]].”

(emphasis supplied)

Arguments on the application partly heard.

Ld. Counsel for the Scheme Proponent seeks time to take instructions from the Scheme Proponent as regards the implementation of the scheme and payment to the Liquidator.

List the applications for further arguments on **22.07.2024 (Physical Hearing at 2.30 P.M.)**.

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

SANJIV JAIN
MEMBER (JUDICIAL)

vs