

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
VC AND PHYSICAL (HYBRID) MODE
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
08-05-2024 AT 10:30 AM**

**CP(IB) No. 329/7/HDB/2020
AND
IA(IBC) 22, 516 & 1991/2023, IA(IBC) 426, 435 & 501/2024 in
CP(IB) No. 329/7/HDB/2020
u/s. 7 of IBC, 2016**

IN THE MATTER OF:

State Bank of India

...Financial Creditor

AND

Dharti Dredging and Infrastructure Ltd

...Corporate Debtor

C O R A M:-

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

ORDER

IA(IBC) 22/2023

Learned Counsel Mr GP Yash Vardhan for applicant present physically.
Orders not pronounced. **For orders on 19.06.2024**

IA(IBC) 516/2023

Orders not pronounced. **For orders on 19.06.2024**

IA(IBC) 1991/2023

Learned Counsel Mr GP Yash Vardhan along with Ms Kushi, for applicant present physically.

Learned Counsel for respondent present physically.

It is stated that in the undertaking filed as per the order of this bench, the domain name has been wrongly mentioned.

Learned Counsel for respondent undertakes to file fresh undertaking. Permission granted with a direction that the same shall be filed within a week lest party will be subjected to costs. For compliance, matter adjourned to **19.06.2024**

IA(IBC) 435/2024

Learned Counsel Mr GP Yash Vardhan along with Ms Kushi, for applicant present physically.

Learned Counsel Ms Santhi Chandra, for respondent present through Video Conference.

Rejoinder filed. Pleadings completed. For hearing, matter adjourned to **19.06.2024**

IA(IBC) 501/2024

Learned Counsel Mr GP Yash Vardhan along with Ms Kushi, for applicant present physically.

Proof of service filed as per the same notice to the respondent no.1 returned unserved with an endorsement "no such person in the address". Notice to Respondent Nos 2 and 3 served through post. All the respondents called absent. Service in respect of Respondent Nos 2 and 3 held sufficient. Set ex-parte.

Let fresh notice be taken to Respondent No.1 through registered/speed post with an acknowledgment due and call on **19.06.2024**, meanwhile, counter if any by the respondent No.1.

IA(IBC) 426/2024

Order pronounced. In the result IA is allowed by declaring that the show-cause notice dated 28.12.2023 issued by the Respondent directing the Applicant to pay Rs. 1,21,71,852/- to the Respondent, is null and void, in view of approval of the Resolution Plan. No order as to costs.

SD/-
Member (T)

SD/-
Member (J)

S.No.8

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1**

**IA(IBC) 426/2024 IN
CP(IB) No. 329/7/HDB/2020**

IN THE MATTER OF:

State Bank of India

...Financial Creditor

AND

Dharti Dredging and Infrastructure Ltd

...Corporate Debtor

Date of order: 08.05.2024

C O R A M:-

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

Appearance:-

For Applicant: Shri G.P. Yash Vardhan, Advocate

For Respondent: Ms. Madhumita Bhattacharjee, Advocate

**PER: BENCH
ORDER**

1. This Interlocutory Application is filed seeking the following reliefs:-
 - (i) To pass an order declaring the order for show cause notice dated 28.12.2023 issued by the Respondent directing the Applicant to pay Rs. 1,21,71,852.00 as null and void and that Respondent is not entitled to claim Rs. 1,21,71,852.00 in view of approval of Resolution Plan by this Tribunal on 20.07.2023.
 - (ii) Pending the hearing and final disposal of the present application this Tribunal to please stay the operation, implementation and execution of the order for show cause notice dated 28.12.2023 issued by the Respondent directing the Applicant to pay Rs. 1,21,71,852.00.

- 1.1 Pursuant to the notice ordered by this Tribunal, on 13.03.2024 Ld. Counsel Ms. Madhumita Bhattacharjee, appeared and stated that she has been instructed by the Respondent/ Directorate of Commercial Taxes, Govt. of West Bengal to appear on its behalf, hence the Ld. Counsel was directed to file memo of appearance / vakalat within a week's time and in default it was ordered that the Respondent is deemed to have been set ex-parte. Since the copy of the Application has already been served, two weeks' time was granted to the Respondent to file counter if any, and adjourned the matter to 27.03.2024.
- 1.2 On 27.03.2024, Ld. Counsel Ms. Madhumita Bhattacharjee appeared for the Respondent and stated that she had filed vakalat. This Tribunal ordered that if vakalat is filed, the Respondent is entitled for another 10 days' time to for filing counter and in default of filing vakalat, the Respondent is deemed to have remained ex-parte. However, the Court Officer on verification, informed the Bench that the vakalat of the Respondent was not filed in terms of the order dated 13.03.2024. Thus, the Respondent despite sufficient opportunity, the Respondent remained ex-parte and did not choose to contest the IA.
2. In this backdrop, we have taken up the Application for hearing.
3. According to the applicant, the clauses in the approved Resolution Plan, especially Clause 8.1 clearly states that, upon approval of the Resolution Plan by this Tribunal, the settlements as mentioned in clause 8(1) shall deemed to have been approved by the Tribunal and shall be binding in terms of Section 31(1) of IBC.
4. Ld. Counsel for the Applicant further stated that the impugned notice certainly offended the said clause, hence liable to be struck down by this Tribunal.

6. Admittedly, the Resolution Plan of the Applicant has been approved by this Tribunal vide order dated 20.07.2023. Hence, the resolution plan with all the clauses contained therein is binding in terms of Section 31(1) of IBC.

7. Hon'ble Supreme Court in re Ghanashyam Mishra & Sons Private Limited Versus Edelweiss Asset Reconstruction Company Limited in Civil Appeal No.1554 OF 2021 has held that :-

“the legislative - behind this is, to freeze all the claims so that the resolution applicant starts on a clean slate and is not flung with any surprise claims”.

8. Therefore, in the light of our discussion and case law, this IA deserves to be allowed.

9. Accordingly, the same is hereby allowed by declaring that the show-cause notice dated 28.12.2023 issued by the Respondent directing the Applicant to pay Rs. 1,21,71,852/- to the Respondent, is null and void, in view of approval of the Resolution Plan.

10. **This IA is accordingly allowed and disposed of. No order as to costs.**

SD/-
MEMBER (T)

SD/-
MEMBER (J)