

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-III

Item No.303

IA-796/2021 IA-287/2021 IA-4077/2021 IA-4117/2021 , IA-2696/2021 IA-2663/2021 IA-2430/2021
in
IB-1348(ND)/2019

IN THE MATTER OF:

M/s. Nisus Finance & Investment Managers LLP & Anr. **FINANCIAL CREDITOR**
Vs.
M/s. Earthcon Universal Infratech Pvt. Ltd.**RESPONDENT**

SECTION

U/s 7 IBC, 2016

Order delivered on 03.12.2021

CORAM:

SHRI BACHU VENKAT BALARAM DAS
MEMBER (JUDICIAL)

SHRI NARENDER KUMAR BHOLA
MEMBER (TECHNICAL)

PRESENT:

For the Applicant : IA 2791/2021 Chandra Shekhar Yadav Adv., Adv Pranav
Gupta - 302, in IA 2430/2021 for the Applicant, Adv. Shikhil
Suri, Adv. Madhu Suri, Adv. Komal Gupta, Mr. Dhruv Gupta,
Adv in IA 2696/2021, IA 287/2021, TenzenTashi Negi,
Advocate for NPCL
For the RP : Mr. Rishabh Jain, Advocate for RP

ORDER

IA-2791/2021 : (mentioning)

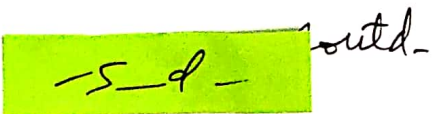
Counsel for the Applicant is present and submits that this IA is not being listed for further consideration. Therefore, the Registry is directed to list the same on the next date of hearing.

At the request of the Counsel, permission is granted to file one more affidavit with regard to the case pending with RERA Authority with an advance copy to be made available to the other side.

List on 27.1.2022.

IA-2430/2021 :

Mr. Pranab. Advocate is present in the present IA and submits that he has the instructions from his client to withdraw the present IA.



The requested as prayed for is granted and the said IA is **dismissed as withdrawn.**

IA-2663/2021 :

At the request of the Counsel for the Resolution Professional and in view of the fact that an Appeal is pending before the Hon'ble NCLAT, let this IA be taken up for further consideration on 10.2.2022.

IA-2696/2021 :

Mr. Dhruv Gupta, Counsel for the Applicant is present. Through the present IA, some objections have been raised against the proposed Resolution Plan which is under consideration before this Authority for approval.

As the said IA has been posted to 10.2.2022, let the present IA-2696/2021 be also posted for further consideration on **10.2.2022.**

IA-4117/2021 :

This is an Application filed under Section 66 of the I&B Code, 2016 for seeking contribution of Rs.13,52,15,756/- towards the cash siphoned away before the insolvency commencement date.

The Counsel has taken us through the present IA which is targeted at two ex-Directors of the Corporate Debtor. In this connection, the Resolution Professional is directed to serve a copy of the present IA on both the respondents by all means within next 2 days' time and file the proof of service along with the supporting affidavit.

The Respondents are also granted two weeks time to file their response in the matter with a copy to the Counsel for the Applicant for filing rejoinder, if any.

In the meantime, Counsel for the R.P. also requests to file the amended Annexure-IV to the present IA. Permission in this regard is granted with the direction that the said amended Annexure-IV shall also be shared with both the respondents for their information and response, if any, thereto.

List the matter on 27.1.2022.

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IB-1348/ND/19
02.12.2021

IA-4077/2021 :

This is an Application filed under Section 43 & 66 of the Insolvency & Bankruptcy Code, 2016 for seeking avoidance of preferential and fraudulent transaction wherein an amount of Rs.25,00,000/- was paid to Director of the Corporate Debtor towards his alleged salary.

Counsel for the Resolution Professional is present and taken us through the present IA wherein relief has been sought only against the Respondent-1. Therefore, Counsel for the R.P. is directed to serve notice of the present IA by all means within the next two days time and file the proof of service along with the supporting affidavit within 10 days. The respondents are directed to file their reply within 2 weeks with a copy to the Counsel for the Resolution Professional for filing rejoinder, if any.

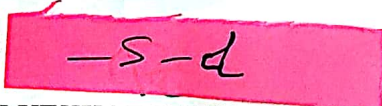
List on 27.1.2022.

IA-287/2021 & IA-796/2021 :

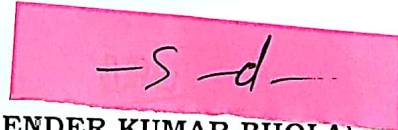
Counsel for the Resolution Professional is present. However, there is no representation on behalf of the Applicant in the matter. It is seen from the records that the Applicant in the matter was granted liberty to file rejoinder, if any, before the next date of hearing. However, no rejoinder has been filed till date.

In view of above, right of filing rejoinder on the part of Applicant is closed.

List the matter for further consideration on 27.1.2022.



**(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)**



**(NARENDER KUMAR BHOLA)
MEMBER (TECHNICAL)**

Surjit

IB-1348/2019
03.12.2021

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-III

IA-1425/2021 in
IB-1348/ND/2019

IN THE MATTER OF:

**Nisus Finance & Investment Managers
LLP & Anr.**

.... FINANCIAL CREDITOR

Vs.

Earthcon Universal Infratech (P) Ltd

....RESPONDENT

SECTION

U/s 7 IBC, 2016

Order delivered on 03.12.2021

CORAM:

**SHRI BACHU VENKAT BALARAM DAS
MEMBER (JUDICIAL)**

**SHRI NARENDER KUMAR BHOLA
MEMBER (TECHNICAL)**

PRESENT:

For the Applicant : Adv. Shikhil Suri, Adv. Madhu Suri, Adv. Komal Gupta and Adv.
Nikita Thapar

For the Respondent :

For the Intervener : Rishabh Jain, Advocate for RP

ORDER

IA-1425/2021 :

Counsel for the Applicant is present in this IA. Counsel for the Resolution Professional is also present.

The present IA has been filed by the Financial Creditors under Section 7 of IBC, 2016 challenging the Agenda Item No.7 (A) of the Minutes of 5th COC Meeting held on 19.2.2021. The Applicants have prayed to set aside the Agenda Item No. 7(A) in the Minutes of 5th COC Meeting and prayed for the following relief amongst others :

“To direct the COC not to have joint representation before any legal Forum through a single Advocate/Law firm and every COC member should be allowed to appoint Advocate/Lawyer for themselves individually in order to be represented and to protect their rights before any Forum”.

The main ground on which this Application is filed is that in the event of a conflict with the COC and in case one COC member dissent with the

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members of other COC members it may not be represented by common Advocate engaged by the COC in terms of the Agenda under challenge.

The Resolution Professional has filed an affidavit in response and has submitted that this Hon'ble Tribunal vide Order dated 07.3.2021 has directed the RP to prepare an agenda which is as follows :

- a) to work out the criteria for appointment of Lawyer/Law Firm on behalf of COC ;
- b) Scope of work to be assigned to the Lawyer /Law Firm on behalf of COC and
- c) The estimated cost to be incurred for the services to be rendered by the Lawyer/Law Firm on behalf of COC.

He has submitted that in compliance with the aforesaid direction, a draft Standard Operating Procedure (SOP) containing the criteria, scope and estimated cost were served to all the COC members and was placed before the COC.

On 03.5.2021, the Authorized Representative of the Real Estates Allottees requested the COC members to consider the draft SOP and subsequently, the Agenda was passed with the requisite majority which was duly communicated to all the COC members vide email dated 13.4.2021, 18.4.2021 and 25.4.2021.

In the light of the submissions made by the Counsel for the Resolution Professional, we are of the view that since the COC has approved the Agenda, in question, with the majority which was placed before it pursuant to the order passed by the Hon'ble Tribunal, we see no merit in the Application filed by the Applicant which is accordingly dismissed.

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(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)

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(NARENDER KUMAR BHOLA)
MEMBER (TECHNICAL)

IB-1348/2019
03.12.21 (C-III)