

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

Item No.303

IA-1244/2022 IA-1674/2022 IA-82/2022 IA-1417/2022 IA-1450/2022 IA-1432/2022 IA-5441/2021 IA-4335/2021 IA-3379/2020 IA-4353/2021 Cont.P-18/2021

In

IB-1348(ND)/2019

IN THE MATTER OF:

M/s. Nisus Finance & Investment Managers LLP & Anr

.... APPLICANT

Vs.

M/s. Earthcon Universal Infratech Pvt. Ltd.

.... RESPONDENT

SECTION

U/s 7 IBC code 2016

Order delivered on 27.04.2022

CORAM:

SHRI BACHU VENKAT BALARAM DAS
MEMBER (JUDICIAL)

SHRI NARENDER KUMAR BHOLA
MEMBER (TECHNICAL)

PRESENT:

For the Applicant

: Adv. Soniya Kanetkar I.A. No. 1674/2022 Adv. Nidhi Mohan Parashar, Adv. Umang Kumar Singh, Adv. Param Agarwal, for Applicants, Adv. Ateendra Saumya Singh-For Applicants in IA 1417 & 1450/2022, Adv. Shikhil Suri, Ms. Nikita Thapar and Ms. Mahima Aggarwal in Contempt Petition 18/2021, Mr. Manish Srivastava, Advocate for Non Applicant (GNIDA).

For the Ex-Directors

: Adv. Alankrit Bhatnagar, Proxy Counsel for Ex-Directors in I.A. 1244/2022.

For the NPCL

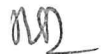
: Adv. Tenzen Tashi Negi, for NPCL

For the RP

: Adv. Rishabh Jain, for RP, Ertwhile IRP jitender arora in person IA 3379/2020

For the Respondent

: IA-1244/2022- Advocates- Mr. Shikhil Suri, Ms. Nikita Thapar, Ms. Mahima Aggarwal on behalf of respondent No.2 &3, I.A. No. 1244/2022: Adv. Nidhi Mohan Parashar, Adv. Umang Kumar Singh, Adv. Param Agarwal, for Respondent No. 6, 7, 8, 14, 15, 16



Cont.

ORDER

IA-1244/2022 IA-1674/2022 IA-1417/2022 IA-1450/2022:-

Ld. Counsel for the Resolution Professional is present. Ld. Counsel for the Financial Creditor is present. Ld. Counsel for Respondent No. 6 to 8 & 14 to 16 is also present. Ld. Counsel for the RP submits that this IA may be allowed so as to comply with the orders of this Tribunal dated 23.07.2021. At this stage, Counsel for the Financial Creditor submits that the matters arising out of the order dated 23.07.2021 of this Tribunal are under appeal before the Hon'ble NCLAT, the same have already been heard in part. He further submits that in view of the same the present matter seems to be premature as of now.

In addition, the Counsel for the Ex-Director submits that he may be permitted to file reply to the present IA. Ld. Counsel for the Ex-Directors is allowed to file reply to the present IA within two weeks' time.

In the meantime, as the matters are already pending before the Hon'ble NCLAT, let the present IA be listed for further consideration after one month.

Other Respondents in the matter are also directed to file reply to the present application within the aforesaid given time.

List the matter on **02.06.2022**.

IA-82/2022 & IA-1432/2022:-

Ld. Counsel for the Applicant is present. Ld. Counsel for the Resolution Professional is also present. Ld. Counsel for RP submits that certain important development with regard to the claim of the Noida Authority has taken place as CoC has taken some decisions for the same on 02.05.2022. Further, he needs some time for filing appropriate reply in the matter. At request, one week time is granted for filing formal reply alongwith minutes of CoC in support of the said decision with a copy of the same to the Counsel for the Applicant in the matter.



List the matter on **02.06.2022**.

IA-5441/2021:-

No one is present on behalf of the Applicant. In the interest of justice, list the matter after three weeks' for further consideration on **02.06.2022**.

IA-4335/2021:-

It is seen from the present IA 4335/2021 that certain Petition has been prayed for urgent listing. However, no details of any petition or application which is pending before this Tribunal has been mentioned in the present IA. Therefore, the present IA is deficient with regard to the exact matter which is to be heard on priority basis.

Accordingly, the present IA being ambiguous and uncertain is **dismissed**.

IA-3379/2020:-

Ld. Counsel for the Resolution Professional is present. Ld. Counsel for the ex-IRP is also present. Under this IA certain claims have been raised by the ex-IRP which are pending full and final settlement by the present RP. Ld. Counsel for the RP submits that there are little funds available with him for conducting the CIRP Proceedings. He further submits that he has filed detailed report with regard to the claim of the IRP and the claim is held as admitted by the CoC in its meeting held on various occasions. However, due to precarious financial condition of the company, he is unable to make full and final settlement of the claim as of now. He further submits that there are certain litigations which are already pending before the Hon'ble NCLAT, due to which, the CIRP Process of the company is adversely affected. However, as soon as the litigations are completed and the money is made available in the CIRP process, due consideration and payment of the IRP's pending fees and expenses shall be considered by him.

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In view of the above, list the matter for further consideration on **02.06.2022.**

IA-4353/2021:-

Ld. Counsel for the Resolution Professional is present. Counsel has taken us through the compliance affidavit dated 20.11.2021 alongwith which the claims have been collected by him and filed, which are available as Annexure 1 at Page No. 4 of the said report dated 20.11.2021. It is seen therefrom that the claim of the Applicant in the present IA has already been properly ^{collected} and admitted. Therefore, the present IA has become infructuous and the requisite relief prayed for has been granted by the RP.

Accordingly, the present IA-4353/2021 stands **dismissed** as being infructuous.


Cont.P-18/2021:-

Ld. Counsel for the Applicant is present. Ld. Counsel for the Resolution Professional is present. Ld. Counsel for the RP submits that he has filed compliance affidavit with regard to order dated 23.07.2021. Ld. Counsel for the Applicant submitted that he wish to file his response to the affidavit of compliance filed by the RP. At request, time of two weeks' is granted for doing the needful. It is also seen that the issues arising out of the order dated 23.07.2021 are also under appeal before the Hon'ble NCLAT.

Therefore, list the matter after four weeks' for further consideration on **02.06.2022.**



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



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

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