

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

Item No. 202

IA-2818/2023 IA-2500/2023 IA-458/2023 459/2023 IA-96/2023 IA(Com.A)-37/2023
IA-4645/2022 IA-1934/2021 IA-1994/2021 IA-5441/2021 IA-2791/2021 IA-5916/2022
IA-5917/2022 IA-1554/2022 IA-2696/2021 IA-2663/2021 IA-3051/2022 IA-85/2023
IA-4537/2022 IA-4016/2022 IA-1244/2022 IA-1046/2022 IA-1674/2022 IA-1417/2022
IA-1450/2022 IA-1357/2022 IA-1376/2022 IA-3170/2022 IA-287/2021 IA-796/2021
IA-1146/2022 IA-82/2022 IA-1432/2022 IA-808/2023 IA-3896/2021 IA-4126/2022
IA-4436/2022 IA-3379/2020 Cont.P-18/2021 IA-2868/2022 IA-3884/2021 IA-1016/2021
IA-1020/2021 IA-1025/2021 IA-1032/2021 IA-1054/2021 IA-1056/2021 IA-1060/2021
IA-1064/2021 IA-4077/2021 IA-1508/2021 IA-4117/2021 IA-3895/2021 IA-3899/2021
IA-3057/2022 IA-3062/2022 IA-3064/2022 IA-3073/2022 IA-3074/2022 IA-3324/2022

In

IB-1348(ND)/2019

IN THE MATTER OF:

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

.....APPLICANT/PETITIONER

Vs

M/s. Earthcon Universal Infratech Pvt. Ltd.

.....RESPONDENT

SECTION

U/s 7 of IBC, 2016

Order delivered on 26.05.2023

CORAM:

SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)

SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant

: Mr. Shikhil Suri, Adv. Ms. Aphune K. Kezo, Advs.
Mr. Siddharth Bhatli, Mr. Khyati Jain, Advs.
in IA 5441/2021
Mr. UN Singh Adv in 85/2023.
Mr. Shikhil Suri, Adv., and Ms. Aphune K. Kezo,
Adv. in IA 4645/2022 and Contempt P. 18/2021
Mr. Sandeep Garg, Mr. Shobhit Gupta
Mr. Jatin Kumar in I. A. No. 1064 and 1934.
Mr. Pranay Maheshwari, Adv.
Sr. Nos. 1, 2, 3, 5, 7, 10, 11, 12.
Mr. Kumar Mihir, Adv in IA-4537/22
IA-2500/2023.

For the Homebuyers

: Mr. Sanjay Khanna in IA-2818

For the Respondent

: Adv. Anisha proxy counsel for
Ms ekta Coudhary in IA 1934 of 2021
Mr. Shikhil Suri, Adv., and Ms. Aphune K. Kezo,
Adv. in IA 1224/2022
Mr. Rishi Awasthi Mr. Avinash Ankit, Advs.
In I.A. No. 1016, 1020, 1032, 1054/2021
Mr. Pranay Maheshwari, Adv.

Sr. Nos. 40, 43, 45, 46, 47, 51.
Mr. Piyush Singh, Mr. Kashish Sareen,
Mr. Jayant Upadhyay, Advs in IA-1025/2021
For the Ex-Directors : Adv Mohd Arsh Khan
For the NPCL : Mr. Anil Dutt, Mr. Tenzen Tashi Negi, Advocates.
For the RP : Mr. Rishabh Jain, Advocate.

ORDER

IA-2663/2021:-

This application has been filed by the Resolution Professional seeking approval of the Resolution Plan. Due to some subsequent developments, the Resolution Professional has filed an affidavit stating as follows: -

I. *That the captioned application was filed by me for seeking approval of Resolution Plan u/s 31 of IBC, 2016.*

II. *It is submitted that during the pendency of IA-2663/2021, this Hon'ble Tribunal vide order dated 23.07.2021 in IA-1606/2021 directed the Resolution Professional to exclude 205 flats from the common pool/assets of the Corporate Debtor and the voting right of the applicant therein was directed be reduced by the value of 205 flats.*

III. *Total seven appeals were filed against the said order dated 23.07.2021 in IA-1606/2021.*

IV. *That the Hon'ble Appellate Tribunal vide judgment dated 25.01.2023 in Company Appeal (AT) (Ins) No. 593/2021 and others have allowed the appeal and set aside the order dated 23.07.2021 passed by this Hon'ble Tribunal in IA-1606/2021.*

V. *That M/s. Saya Homes Private Limited has already withdrawn its performance guarantee and the estimate of construction cost mentioned in its Resolution Plan was valid for six months therefore the Resolution Plan submitted by M/s. Saya Homes Private Limited during May, 2021 became meaningless.*

VI. *The CoC in its 20th meeting held on 28.02.2023 has also decided and authorized the Resolution Professional to withdraw the Resolution Plans i.e. IA-2662/2021.*

VII. *It is submitted that in view of the Hon'ble Appellate Tribunal's judgment and CoC's decision in its 20th meeting, the captioned application has become infructuous and the Resolution Professional don't want to pursue the captioned application anymore.*

In view of the affidavit filed by the Resolution Professional and statement made by the Learned Counsel appearing for the Resolution Professional, the present application is **dismissed**.

IA-2696/2021:-

This application has been filed by some of the Allottees raising objections to the Resolution Plan submitted by the Resolution Professional.

In view of the order passed in IA-2663/2021 on 26.05.2023, the present application i.e. IA-2696/2021 **dismissed as infructuous.**

IA-3051/2022:-

This application has been filed by the Resolution Professional seeking approval of the Resolution Plan. Due to some subsequent developments, the Resolution Professional has filed an affidavit stating as follows: -

I. *That the captioned application was filed by me for seeking approval of Resolution Plan u/s 31 of IBC, 2016.*

II. *It is submitted that during the pendency of IA-2663/2021, this Hon'ble Tribunal vide order dated 23.07.2021 in IA-1606/2021 directed the Resolution Professional to exclude 205 flats from the common pool/assets of the Corporate Debtor and the voting right of the applicant therein was directed be reduced by the value of 205 flats.*

III. *Total seven appeals were filed against the said order dated 23.07.2021 in IA-1606/2021. Therefore, the RP did not amend the information Memorandum.*

V. *But M/s. Nisus Finance and Investment Managers LLP, the applicant in IA-1606/2021 filed contempt application No. 18/2021 before the Hon'ble Tribunal for not amending the information Memorandum by the Resolution Professional.*

VI. *That on 26.10.2021 Contempt Application No. 18/2021 was listed for hearing wherein this Hon'ble Tribunal directed the Resolution Professional to convene the CoC meeting and seek direction for further extension of CIR period before this Hon'ble Tribunal.*

VII. *In the meantime, the Resolution Professional amended the information Memorandum and supplied the same to all the stakeholders of the Corporate Debtor.*

VIII. *It is submitted that the amended information Memorandum was subject to outcome of seven appeals filed before the Hon'ble NCLAT.*

In view of the affidavit filed by the Resolution Professional and statement made by the Learned Counsel appearing for the Resolution Professional, the present application is **dismissed.**

IA-85/22023, IA-4537/2022 & IA-4016/2022: -

In view of the order passed in IA-3051/2022 on 26.05.2023, these applications are **dismissed as infructuous.**

IA-1244/2022 & IA-1046/2022:-

Mr. Rishabh Jain, Learned Counsel appearing for the Resolution Professional seeks permission to withdraw these applications. Permission granted.

IA-1244/2022 & IA-1046/2022 are **dismissed as withdrawn.**

IA-1674/2022:-

None appears for the Applicant despite repeated calls.

IA-1674/2022 **dismissed for non-prosecution.**

IA-1417/2022, IA-1450/2022, IA-1357/2022, IA-1376/2022 & IA-3170/2022:-

These applications are **dismissed as infructuous.**

IA-3896/2021:-

Mr. Rishabh Jain, Learned Counsel appearing for the Resolution Professional seeks permission to withdraw these applications. Permission granted.

IA-3896/2021 **dismissed as withdrawn.**

IA-4436/2022:-

The present application is **dismissed as infructuous.**

IA-2868/2022:-

None appears for the Applicant despite repeated calls.

IA-2868/2022 **dismissed for non-prosecution.**

List all remaining applications with respect to claim and maintenance on **08.06.2023** and other applications on **11.7.2023.**

Sd/-
(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

Sd/-
(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)