

IN THE NATIONAL COMPANY LAW TRIBUNAL,
NEW DELHI COURT III

Item No. 02

IA-458/2023 IA-459/2023

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.

.....CORPORATE DEBTOR

SECTION

U/s 7 of IBC, 2016

Order Pronounced on 17.07.2023

CORAM:

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

SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant :

For the Respondent :

ORDER

Order pronounced in open court vide separate sheets. IA-458/2023 & IA-459/2023 are **allowed** and **disposed of**.

Sd/-

(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

Sd/-

(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI (COURT-III)**

IA-458/2023

In

IB-1348(ND)/2019

Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016

IN THE MATTER OF:

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

..... Financial Creditors

Versus

M/s. Earthcon Universal Infratech Pvt. Ltd.

..... Corporate Debtor

AND IN THE MATTER OF:

M/s. Imperish Construction Pvt. Ltd.

.....Applicant

Versus

Mr. Gaurav Katiyar, RP

.....Respondent

Pronounced on: 17.07.2023

CORAM:

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

SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)

PRESENT:-

For the Applicant	: Mr. Shikhil Suri, Ms. Aphune K. Kezo, Advs in IA No. 4645/2022 Mr. Dhruv Gupta, Adv in IA 287/2021.
For the Ex Director	: Mr. Saifuddin Khan, Mr. Shahid Khan Mohd Arsh Khan, Advocates.
For the RP	: Mr. Rishabh Jain, Advocate Mr. Abhishek Kaushik, Advocate in IA No. 2500/2023.
For the Home Buyers	: Mr. Devanshu Chauhan Advocate.
For the NOIDA	: Mr. UN Singh Advocate.

ORDER

PER: BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)

1. This application has been filed by M/s. Imperish Construction Private Limited, the Applicant herein seeking a direction to the Resolution Professional to make the payment in respect of the work done during the CIRP period i.e. for the RA Bill dated 15.05.2020 of the commercial block at CASA ROYAL for an amount of Rs. 35,06,032/-.
2. It is submitted by the Applicant that the Resolution Professional has not given any reasons for the rejection of the payment of an amount of Rs. 35,06,032/- for the work done during the CIRP period under the supervision of Erstwhile IRP Mr. Jitender Arora.
3. The Resolution Professional has filed a short reply affidavit. The Resolution Professional has admitted that the Applicant had supplied goods and rendered services to the Corporate Debtor during the tenure of Erstwhile IRP namely, Mr. Jitender Arora.
4. It is submitted that the Resolution Professional has verified the records of the Corporate Debtor and found that the Applicant had supplied goods and rendered services (i.e., contractor) of Rs. 35,06,032/- to Corporate Debtor during the CIRP. However, during the verification process, it was found that the tiles of Rs. 7,20,773/- were provided by the Corporate Debtor for which a debit note of Rs. 7,20,773/- was issued to the Applicant on 04.02.2023. Therefore, as per Section 5(13)(c) of the IBC, 2016 the supply of goods and rendered services (i.e., contractor) of Rs. 27,85,529/- stands qualified as CIRP costs.
5. It is pertinent to mention that the Resolution Professional has collated the claim of Applicant of Rs. 1,09,89,821/- which includes the aforesaid amount of Rs. 27,85,529/-. Therefore, the Resolution Professional be permitted to collate the amount of Rs. 27,85,529/- as CIRP costs and reduce the admitted claim of Applicant by Rs. 27,85,529/-.
6. Mr. Rishabh Jain, Learned Counsel appearing for the Resolution Professional submitted that after collation of the claim of the Applicant, the Resolution Professional has permitted Rs. 27,85,529/- as CIRP

cost. Learned Counsel appearing for the Applicant has submitted that the Applicant is agreeable to receive the said amount.

7. In view of the submissions made by the Learned Counsel appearing for the parties, we direct that the Resolution Professional shall pay an amount of Rs. 27,85,529/- to the Applicant forthwith.

8. The Resolution Professional is directed to file a compliance affidavit within two weeks from the pronouncement of this Order.

The Registry is directed to accept the compliance affidavit.

IA **allowed** and **disposed of**.

Sd/-

(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

Sd/-

(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI (COURT-III)**

IA-459/2023

In

IB-1348(ND)/2019

Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016

IN THE MATTER OF:

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

..... Financial Creditors

Versus

M/s. Earthcon Universal Infratech Pvt. Ltd.

..... Corporate Debtor

AND IN THE MATTER OF:

M/s. Shiv Gorakh Buildtech Pvt. Ltd.

.....Applicant

Versus

Mr. Gaurav Katiyar, RP

.....Respondent

Pronounced on: 17.07.2023

CORAM:

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

SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)

PRESENT:-

For the Applicant	: Mr. Shikhil Suri, Ms. Aphune K. Kezo, Advs in IA No. 4645/2022 Mr. Dhruv Gupta, Adv in IA 287/2021.
For the Ex Director	: Mr. Saifuddin Khan, Mr. Shahid Khan Mohd Arsh Khan, Advocates.
For the RP	: Mr. Rishabh Jain, Advocate Mr. Abhishek Kaushik, Advocate in IA No. 2500/2023.
For the Home Buyers	: Mr. Devanshu Chauhan Advocate.
For the NOIDA	: Mr. UN Singh Advocate.

ORDER

PER: BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)

1. This application has been filed by M/s. Shiv Gorakh Buildtech Private Limited, the Applicant herein seeking a direction to the Resolution Professional to make the payment in respect of the work done during the CIRP period i.e. the amount of Rs. 2,27,57,460/- which includes the 2nd RA Bill dated 04.02.2020 of the commercial block at CASA ROYAL for an amount of Rs. 50,23,882/-.
2. It is submitted by the Applicant that the Resolution Professional has not given any reasons for rejection of the payment of an amount of Rs. 2,27,57,460/- for the work done during the CIRP period under the supervision of Erstwhile IRP Mr. Jitender Arora.
3. The Resolution Professional has filed a short reply affidavit. The Resolution Professional has admitted that the Applicant had supplied goods and rendered services to the Corporate Debtor during the tenure of Erstwhile IRP namely, Mr. Jitender Arora.
4. It is submitted that the Resolution Professional has verified the records of the Corporate Debtor and found that the Applicant had supplied goods and rendered services (i.e., contractor) of Rs. 50,23,882/- to Corporate Debtor during the CIRP. Therefore, as per Section 5(13)(c) of the IBC, 2016 the supply goods and rendered services (i.e., contractor) of Rs. 35,06,032/- stands qualified as CIRP costs.
5. It is pertinent to mention that the Resolution Professional has collated the claim of Applicant of Rs. 8,34,26,568/- which includes the aforesaid amount of Rs. 50,23,882/-. Therefore, the Resolution Professional be permitted to collate the amount of Rs. 50,23,882/- as CIRP costs and reduce the admitted claim of Applicant by Rs. 50,23,882/-.
6. Mr. Rishabh Jain, Learned Counsel appearing for the Resolution Professional submitted that after collation of the claim of the Applicant, the Resolution Professional has permitted Rs. 50,23,882/- as CIRP cost. Learned Counsel appearing for the Applicant has submitted that the Applicant is agreeable to receive the said amount.

7. In view of the submissions made by the Learned Counsel appearing for the parties, we direct that the Resolution Professional shall pay an amount of Rs. 50,23,882/- to the Applicant forthwith.
8. The Resolution Professional is directed to file a compliance affidavit within two weeks from the pronouncement of this Order.
The Registry is directed to accept the compliance affidavit.
IA **allowed** and **disposed of**.

Sd/-

(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

Sd/-

(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)