

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

Item No.201

IA-2500/2023 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-1064/2021 IA-
1508/2021 IA-287/2021 IA-796/2021
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 IBC code 2016

Order delivered on 17.08.2023

CORAM:

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

SHRI ATUL CHATURVEDI HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant

: Mr. Chandrashekhar Yadav, Mr. Gauransh Singh Chauhan, Advocates in IA-2791/2021, Mr. Shikhil Suri, Ms. Wamika Chadha, Ms. Nidhi Kapoor, Advocates in IA-4645/2022, Mr. Siddharth Bhatli, Ms. Khyati Jain, Advocates in IA-5441/2021

For the RP

: Mr. Rishabh Jain, Advocate for RP

For the Noida Authority : U.N Singh, Advocate for G. Noida Authority

For the Respondent

: Mr. Siddharth Bhatli, Ms. Khyati Jain, Advocates in IA-1508/2021

ORDER

IA-2500/2023:-

List the matter on **05.09.2023**.

IA-1934/2021:-

List this application alongwith IA-1064/2021 on **15.09.2023**.

IA-5441/2021:-

List this application alongwith IA-1508/2021 on **15.09.2023** in the category of avoidance transaction.

IA-1994/2021:-

None appears for the Applicant despite repeated calls.

IA-1994/2021 **dismissed** for non-prosecution.

IA-2791/2021:-

Heard Ld. Counsel appearing for the Applicant.

The Applicant shall file a brief note of submissions alongwith copy of the order dated 01.07.2021 passed in IA-1822/2021 and order dated 07.04.2021 passed in IA-1020/2021 within three days.

The RP is also directed to file one page note within three days.

Order **reserved**.

IA-5916/2022:-

None appears for the Applicant despite repeated calls.

IA-5916/2022 **dismissed** for non-prosecution.

IA-5917/2022:-

None appears for the Applicant.

Mr. Rishabh Jain, Ld. Counsel appearing for the Resolution Professional has submitted that the Applicant did not submit the relevant documents i.e. GST returns for consideration of the claim and therefore the claim was rejected.

IA **dismissed** for non-prosecution as well as on merits.

IA-1554/2022:-

None appears for the Applicant.

Mr. Rishabh Jain, Ld. Counsel appearing for the Resolution Professional has submitted that the claim of the Applicant was rejected on the ground that no cash receipts were produced by the Applicant to show the bonafides. This Application is therefore **dismissed** for non-prosecution as well as on merits.

IA-287/2021, IA-796/2021

None appears for the applicant.

Heard submissions of Mr. Rishabh Jain Ld. Counsel appearing for the Resolution Professional and perused the application.

Liberty granted to file a short written submission within one week.

Order Reserved.

IA-4645/2022

This application has been filed with the following prayer:

i. *Allow the Applicants to file Claim FORM CA under Regulation 8A under of the Insolvency and Bankruptcy Board of India (Insolvency Resolution process for Corporate Persons) Regulations, 2016;*

ii. *Direct the Resolution Professional to accept and collate, the claims of the applicants under the Form CA submitted to the RP and accordingly classify Applicants , as financial creditor in 1 class;*

iii. *Restate the composition of CoC by including the claims of the Applicants and recognise the voting rights of the applicants under the FC in class through the AR;*

iv. Direct the Resolution Professional to provide CoC minutes and other relevant information/ documents to the Applicants, as may be desired by the applicants;

v. Direct the RP to undertake fresh voting on agenda items which require the FC in class to vote, wherein the applicants did not have an opportunity to consent or dissent;

We have heard the submissions made by Ms. Wamika Chadha, Ld. Counsel appearing for the applicant who submitted that she has filed an appeal before the Hon'ble NCLAT IA-1606/2022 against the order dated 23.07.2021 in IA-1606/2022 which was dismissed by the Hon'ble NCLAT.

Ld. Counsel further submitted that the Applicant filed Civil Appeal No. 2010-2016/2023 against the order passed by the NCLAT which was dismissed by the Hon'ble Supreme Court and subsequently Applicant filed a Review Petition vide Diary no. 21518/2023 on 17.05.2023 which is yet to be listed. Ld. Counsel therefore sought an adjournment.

Mr. Rishabh Jain Ld. Counsel appearing for the Resolution Professional has submitted that the Applicant has been treated as a Secured Financial Creditor and the Applicant is participating in the CoC Meeting and therefore, the prayer in this application does not survive.

At the stage Ms. Wamika Chadha, Ld. Counsel appearing for the applicant seeks liberty to withdraw this application.

IA dismissed as withdrawn.

Sd/-

**(ATUL CHATURVEDI)
MEMBER (TECHNICAL)**

Sd/-

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