

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

ITEM No. 303

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 Petitioner/Applicant
LLP & Anr

Vs.

M/s. Earthcon Universal Infratech Pvt. Ltd. Respondent

Order under Section 7 of the IBC, 2016

Order delivered on 21.12.2023

CORAM:

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

SHRI ATUL CHATURVEDI HON'BLE MEMBER (TECHNICAL)

PRESENT:

For Applicant :

For RP :

Mr. Rishabh Jain, Advocate for RP

ORDER

IA-4117/2021:-

This application has been filed under Section 66 of IBC seeking the following prayers;

- a. *“to direct the Respondents, jointly or severally, to contribute the amount of Rs. 13,52,15,756/- along with interest towards the assets of the Corporate Debtor”*

The RP is directed to clarify whether the so called homebuyer's claim who have allegedly made the payment in cash to the Suspended Board of Directors of the Corporate Debtor in question, appear in the list of home buyers, who were either in possession of the flats or have submitted their claim in the present main matter.

List the matter on **17.01.2024.**

IA-3895/2021:-

This application has been filed by the Resolution Professional under Section 43 of the Code, 2016 for recovery of Rs. 7,20,929/- from the Respondent. It is the case of the Applicant that the Corporate Debtor was the owner of a Car-Toyato land Cruiser VS and the written down value of the said car was Rs. 7,20,929/-

It is submitted that as per the Tally data, the Corporate Debtor transferred its Car Toyota Land Cruiser VX to the Respondent on 10.05.2019, at sale value of Rs. 15,77,064/- against the outstanding operational debt of the Respondent.

The RP contended that this transaction took place within the look out period as provided under Section 43 (4)(d) of the Code.

No one appeared on behalf of the Respondents despite due service of notice. Having heard the submissions of Ld. Counsel appearing for the Applicant, we are of the considered view that the transaction took place within the look out period as provided under Section 43 (4)(d) of the Code. We, therefore direct the Respondent to refund the amount of Rs. 7,20,929/- to the Resolution Professional within two weeks.

IA allowed.

IA-3899/2021:-

This application has been filed by the Resolution Professional under Section 43 of the Code, 2016 for recovery of Rs. 3,07,145/- from the Respondent. It is the case of the Applicant that the Corporate Debtor was the owner of a Car-Toyota Innova and the written down value of the said car was Rs. 3,07,145/-

It is submitted that as per the Tally data, the Corporate Debtor transferred its Car Toyota Innova to the Respondent at sale value of Rs. 4,00,000/- on 10.04.2019

The RP contended that this transaction took place within the look out period as provided under Section 43 (4)(d) of the Code.

No one appeared on behalf of the Respondents despite due service of notice. Having heard the submissions of Ld. Counsel, we are of the considered view that the transaction took place within the look out period as provided under Section 43 (4)(d) of the Code. We, therefore direct the Respondent to refund the amount of Rs. 3,07,145/- to the Resolution Professional within two weeks.

IA allowed.

**IA-3057/2022 IA-3062/2022 IA-3064/2022 IA-3073/2022 IA-3074/2022
IA-3324/2022:-**

Ld. Counsel appears for the Applicant/Resolution Professional. On 15.09.2023, Mr. Shobhan, Ld. Counsel for the Respondent had appeared and sought an adjournment for filing reply affidavit. No reply has been filed till date. No one has appeared on behalf of the Respondent today, when the matter was called out. In the interest of justice, we are inclined to grant one more opportunity to the Respondents for filing reply affidavit. One week time granted as a last and final opportunity to enable the Respondents to file reply affidavit. The RP shall forward a copy of the order to the Respondent for necessary action. The Court Officer is also directed to send e-notice alongwith a copy of the order to the Respondent.

List the matter on **17.01.2024.**

**Sd/-
(ATUL CHATURVEDI)
MEMBER (TECHNICAL)**

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