

DIVISION BENCH

ITEM NO.107

**NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH
PRAYAGRAJ**

IA NO.632/2023 IN CP (IB) NO.45/ALD/2019

CORAM:

- 1. SHRI PRAVEEN GUPTA,
HON'BLE MEMBER (JUDICIAL)**
- 2. SHRI ASHISH VERMA,
HON'BLE MEMBER (TECHNICAL)**

Date of Order: 6th February, 2024

Attendance-Cum-Order Sheet of the Hearing.

NAME OF THE COMPANY	NITIN JAIN & ANR V/S RATANDEEP INFRASTRUCTURE PVT LTD
UNDER SECTION	7 IBC (IN LIQUIDATION)

COUNSEL APPEARED THROUGH PHYSICAL/ VIRTUAL HEARING:

Sh. Yash Tandon, Adv.

*: For the Applicant/ Liquidator,
Mr. Alok Kumar Kuchhal present
in person in IA No.632/2023*

Sh. Shrey Singh, Adv.

: For the IBBI

ORDER

IA No.632/2023

- 1.** This application has been filed by the Liquidator seeking following prayers :-
 - a) Take on record the Sale Certificate registered before the Office of Sub-Registrar IV, Ghaziabad, Uttar Pradesh regarding confirmation of registry of the auctioned asset of the Corporate Debtor;*
 - b) Issue appropriate directions to the Liquidator in respect of the mechanism that is to be adopted for the distribution of funds amongst the secured creditors and prescribed treatment for flat buyers, in terms of Section 53 of the Insolvency and Bankruptcy Code, 2016;*
 - c) Pass such other order(s)/ direction(s) that this Hon'ble Tribunal may deem fit and proper in the light of the facts and circumstances of the matter.*
- 2.** This is a case revolving around disbursement of the sale proceeds of the assets of the Corporate Debtor particularly in the context of the creditors in class by adopting the principles of the water fall mechanism as enshrined under Section 53 of the Code.

-Sd-

-Sd-

3. The Liquidator has made the averments in para nos.10 and 11 of the application regarding seeking observations/ clarifications from the IBBI to act accordingly as may be advised by the IBBI in the background of the factual matrix of the present case. Para nos.11 and 12 of the application read as under :-

11. *Since the responses from both IBBI and IPA are pending, it is this Hon'ble Bench who has the ultimate jurisdiction to order the distribution of funds, according the Liquidator is now before this Hon'ble Tribunal, seeking directions on the appropriate mechanism to be adopted for the distribution of funds among the unsecured creditors and the specified treatment for flat buyers, in terms of the waterfall mechanism outlined under section 53 of the Insolvency and Bankruptcy Code.*

12. *The Liquidator believes that transparency and fairness in the process of distribution are of utmost importance to uphold the principles of the insolvency proceedings, thus, in pursuit of an expeditious resolution of the distribution process, the Liquidator respectfully bows down before this Hon'ble Tribunal, seeking appropriate directions.*

4. This Adjudicating Authority by an order dated 12.12.2023 has observed as under particularly in the context of seeking advice/ note from the IBBI :-

2. *It is stated by the Ld. Counsel representing the Liquidator that the particular asset under reference in the IA has been sold and there is thus an availability of funds of Rs.7.56 Crore, which is required to be disbursed amongst the claimants as per the aforesaid provision. It is further stated that there are no Secured Financial Creditors as the claimants. The Liquidator however has sent an email dated 30.11.2023 to the IBBI apart from sending the email to the other concerned. It is further stated that there is no response received from the IBBI so far with respect to the mechanism to be adopted for the purpose of disbursement of the funds particularly relating to the interse disbursement amongst the claimants, whose claims stand admitted.*

3. *Without going into the merit, at this stage we deem it appropriate to issue notice to the IBBI only to a limited extent to respond, as may be deem fit under the circumstances, to the email dated 30.11.2023, which has been annexed as Annexure-4 page 59. The copy of the application along with all of its enclosures would be forwarded to the IBBI within a period of one week along with the copy of this order.*

-Sd-

-Sd-

5. It is to be noted that as a result of the sale proceeds an amount of Rs.7.56 Crores is to be disbursed amongst all the claimants who are largely the unsecured creditors.
6. On the previous date of hearing on 08.01.2024, the DGM of the IBBI has put in appearance and has sought two weeks time to file a short synopsis/ response of the IBBI in the matter. A brief note/ short reply has been presented in the Court today by the Ld. Counsel, Sh. Shrey Singh acting on behalf of IBBI with advance copy already supplied to the Ld. Counsel representing the Liquidator. The said note of the IBBI is taken on record. However, Ld. Counsel acting on behalf of IBBI is also further directed to upload the said note on the e-portal of this Tribunal within a period of one week for the purpose of record.
7. At this stage, we therefore deem it appropriate directing the Liquidator to take notice of the IBBI note/ synopsis, in accordance with law particularly in the context of Section 53 of the Code in consultation with the Stakeholders Consultation Committee. The meeting of the SCC may be convened within a period of one week either by way of physical mode/ VC by issuing due notices via email.
8. The Liquidator may accordingly apprise this Tribunal and move an appropriate application after seeking the consultation of the SCC in terms of the above. Ordered accordingly.
9. The present IA No.632/2023 stands disposed off accordingly.

-Sd-
(Ashish Verma)
Member (Technical)

-Sd-
(Praveen Gupta)
Member (Judicial)

6th February, 2024

Kavya Prakash Srivastava
(Stenographer)