

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. II
KOLKATA**

Interlocutory Application No. 1171/KB/2023

In

Company Petition (IB) No. 696/KB/2020

*Under section 60 (5) of the Insolvency and Bankruptcy Code, 2016 read
with Rule 11 of the National Company Law Tribunal Rules, 2016*

IN THE MATTER OF:

Laser Power & Infra Pvt. Ltd

... Applicant.

Verses

**Rachna Jhunjunwala, the liquidator of Ceebuild Company
Private Limited**

... Respondent

And

***In the matter of :*
Raj Kumar Sharma**

...Operational Creditor

Verses

Ceebuild Company Private Limited

...Corporate Debtor

And

Laser Power & Infra Pvt.

...Applicant

Versus

**Rachna Jhunjunwala, the liquidator of Ceebuild Company
Private Limited**

...Respondent

Date of Pronouncement: April 30, 2024.

CORAM:

**SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)
SHRI D. ARVIND, HON'BLE MEMBER (TECHNICAL)**

Appearance:

VVV Shastri, Adv.

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Shreya Choudhury, Adv.

ORDER

Per: Bidisha Banerjee, Member (Judicial):

1. This Court is congregated through a hybrid mode.
2. Learned Counsels for both parties were heard at length.

Facts in a nutshell

3. The present application has been filed to seek certain reliefs and concessions by the Applicant to run the Corporate Debtor. The Corporate Debtor Ceebuild Company Private Limited was admitted into corporate insolvency resolution process and later to into liquidation on 27.12.2022. The Respondent liquidator followed all the necessary steps and conducted a successful e-auction process where under the Applicant Laser Power & Infra Pvt. Ltd has been declared as the Highest Bidder. The sale certificate dated 18.04.2023 was issued to the Applicant and the Applicant is in the process of reviving the Corporate Debtor and hence, the present application is being filed so that the reliefs and concessions are granted in favour of the Applicant, and the applicant is not saddled with past liabilities of the Corporate Debtor and it runs the Corporate Debtor efficiently.
4. We have considered the reliefs and concessions prayed for .
5. We have noted the following decisions:
 - a. **Jasamrit Designers Pvt.Ltd vs. Mr. Gian Chand Narang & Anr-2023 SCC Online NCLAT 334** Paragraphs 10 and 11 as the right of a successful bidder to seek reliefs and concessions.

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- b. **Gaurav Jain vs. Sanjay Gupta, Liquidator of Pipes and tubes Private Limited**- 2021 SCC Online NCLT 489 paragraphs 20,25,26,28,29,30 and 34 on the nature of reliefs and concessions that are permitted.
- c. **Nitin Jain, Liquidator of PSL Limited vs. Lucky Holdings Private Limited** -2021 SCC Online NCLT 3108 paragraphs 15,29,30 and 36 to 42 as the nature of reliefs and concessions that are permissible.
- d. **Ramesh Chaudhary &Anr. Vs. Anju Agarwal, Liquidator of Shree Bhawani Paper Mills Limited** IA No. 195/2023 in C.P No. 110/ALD/ 2017, by NCLT, Allahabad Bench, vide its order dated 26.05.2023 paragraphs 11, 15, 16, 17, and 25 to 31 as the nature of reliefs and concessions that are permissible.
- e. **Kashri Power & Steel Pvt. Ltd & Ors. vs. WBSEDCLS** as WPA 6327 OF 2020 (12.08.21,) rendered by Hon'ble High Court at Calcutta and Regulation 32A of Liquidation Process Regulations 2016.

6. We allow/grant the following :

S.No.	Waiver, concession sought for	Precedent cited	Order
1.	Direct that 18 th April 2023 i.e, the date of issue of the sale certificate by the Respondent Liquidator shall be	a) Gaurav Jain vs. Sanjay Gupta, Liquidator (Supra) b) Nitin Jain, Liquidator of PSL Limited vs. Lucky Holdings	Granted

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	deemed to be the date of acquisition (“Acquisition Date”) of the said Company by the Applicant on a going concern basis.	Private Limited (Supra)	
2.	Direct the Registrar of Companies, Ministry of Corporate Affairs and all other statutory bodies connected thereto and/or regulatory authorities regulating and overseeing the business of Corporate Debtor to ensure a seamless transition and/or transposition of the Applicant and its nominees as the	a) Gaurav Jain vs. Sanjay Gupta, Liquidator (Supra). b) Nitin Jain, Liquidator of PSL Limited vs. Lucky Holdings Private Limited (Supra)	Granted

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	shareholders, directors and/or key managerial persons of the said Corporate Debtor.		
3.	Declaration that no creditor of the said Corporate Debtor whether operational and/or financial, having any claim of any nature whatsoever in respect of a period prior to the Acquisition Date can raise such claim or demand payment in respect thereof from the Applicant.	<p>a. Gaurav Jain vs. Sanjay Gupta, Liquidator (Supra)</p> <p>b. Nitin Jain, Liquidator of PSL Limited vs. Lucky Holdings Private Limited (Supra)</p> <p>c. Ghanashyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited (Supra)</p>	Granted
4.	Declaration that the Applicant is entitled to all licenses and approvals and is entitled to all	<p>a. Gaurav Jain vs. Sanjay Gupta, Liquidator (Supra)</p> <p>b. Nitin Jain, Liquidator of PSL Limited vs. Lucky Holdings</p>	Granted

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	<p>contractual rights and benefits of the said corporate Debtor and that such licenses and approvals and/or contractual rights and benefits would continue to vest in the said restructured and revived company and/or in the Applicant.</p>	<p style="text-align: center;">Private Limited (Supra) c. Ghanashyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited (Supra)</p>	
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5.	Declaration that the Applicant and/or the revived and restructured Corporate Debtor is not liable in respect of any tax liability accruing before and/or prior to the Acquisition Date.	<p>a. Gaurav Jain vs. Sanjay Gupta, Liquidator (Supra)</p> <p>b. Nitin Jain, Liquidator of PSL Limited vs. Lucky Holdings Private Limited (Supra)</p> <p>c. Ghanashyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited (Supra)</p>	Granted
6.	Declaration that the Applicant and/or the restructured and	<p>a. Gaurav Jain vs. Sanjay Gupta,</p>	Granted

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	<p>revived company have no liability for any past actions and/or omissions and/or for any noncompliance of the applicable laws by the erstwhile directors, shareholders and/or key managerial persons of the said Corporate Debtor.</p>	<p>Liquidator (Supra)</p> <p>b. Nitin Jain, Liquidator of PSL Limited vs. Lucky Holdings Private Limited (Supra)</p> <p>c. Ghanashyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited (Supra)</p>	
7.	<p>Declaration that the Applicant and/or the said revived and restructured Corp</p>	<p>a. Gaurav Jain vs. Sanjay Gupta, Liquidator (Supra)</p> <p>b. Nitin Jain, Liquidator of PSL Limited vs.</p>	Granted

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	<p>orate Debtor has no liability in respect of any litigation investigation enquiries and/or liabilities connected there with and/or arising there from in respect of any claim deed action or thing which has taken place prior to the Acquisition Date.</p>	<p>Lucky Holdings Private Limited (Supra)</p> <p>c. Ghanashyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited (Supra)</p>	
8.	<p>Declaration that the Applicant is entitled to the continuation of all rights, leases and/or other benefits attached to any land belonging to and/or held by the said Corporate Debtor.</p>	<p>a) Gaurav Jain vs. Sanjay Gupta, Liquidator (Supra).</p> <p>b) Nitin Jain, Liquidator of PSL Limited vs. Lucky Holdings Private Limited (Supra)</p>	Granted

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9.	Declaration that the Applicant is entitled to all co-operation and support from Government Agencies, Statutory authorities and/or other entities discharging public duties and functions to carry out the objectives of the Code in restructuring and reviving the said Corporate Debtor as a 'going concern'.	c) Gaurav Jain vs. Sanjay Gupta, Liquidator (Supra). d) Nitin Jain, Liquidator of PSL Limited vs. Lucky Holdings Private Limited (Supra)	Granted.
10.	Direct that the utility providers for the essential services e.g. power supply company, water supply authority to restore uninterrupted	a) Gaurav Jain vs. Sanjay Gupta, Liquidator (Supra). b) Nitin Jain, Liquidator of PSL Limited vs. Lucky Holdings Private Limited (Supra)	Granted

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	supply of power and water with immediate effect.		
11.	Direct that no utility supplier, should withhold / delay supply of utility on the ground of non-payment of dues prior to the Acquisition Date.	a. Gaurav Jain vs. Sanjay Gupta, Liquidator (Supra) b. Nitin Jain, Liquidator of PSL Limited vs. Lucky Holdings Private Limited (Supra) c. Ghanashyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited (Supra)	Granted

7. With the above directions, **IA(IB)No. 1171/KB/2023 is disposed of.**

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8. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.

9. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

**D. Arvind
Member (Technical)**

**Bidisha Banerjee,
Member (Judicial)**

The Order signed on 30th Day of April 2024.

V. Tiwari (LRA)