

NATIONAL COMPANY LAW TRIBUNAL
COURT ROOM NO. 1,
MUMBAI BENCH

Item No. 10

IA 1533/2024 (NEW IA) in C.P. (IB)/4697(MB)2018

CORAM:

SH. PRABHAT KUMAR JUSTICE VIRENDRASINGH BISHT (Retd.)
HON'BLE MEMBER (TECHNICAL) HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON **04.04.2024**

NAME OF THE PARTIES: **M/S ASSOCIATED ROAD CARRIERS LTD.,**
 VS INDSUR GLOBAL LIMITED

Section 60(5) & 9 of the Insolvency and Bankruptcy Code, 2016

ORDER

IA 1533/2024 (NEW IA) in C.P. (IB)/4697(MB)2018

- 1) Mr. Avinash Khanolkar, Ld. Counsel for the Applicant is present.
- 2) The Present Interlocutory Application has been filed by the Liquidator of the Corporate Debtor seeking the following reliefs:
 - a. Admit & Allow the Petition;
 - b. Issue Show Cause Notice to the R1 to R5 for passing appropriate directions for execution of Order dated 21.11.2023 passed in IA 1552/2020 in CP (IB) 4697/MB/ 2018;
 - c. Pass the appropriate directions for Execution of Order dated 21.11.2023 passed in IA 1552 / 2020 in CP (IB) 4697/MB/ 2018 against the R1 to R5;

- 3) It is submitted that during the Corporate Insolvency Resolution Process, the Applicant, in pursuance to the provisions of the Code, conducted a Transaction / Forensic Audit of the transactions of the Corporate Debtor and the Applicant identified certain avoidable / fraudulent transactions carried out by the Respondents and therefore, the Applicant moved an application bearing number IA 1552/2020 under the provisions of S. 66 of the Code.
- 4) This Bench *vide* order dt. 21.11.2023, allowed the Interlocutory Application bearing IA No. 1552 of 2020 and in para 6.7 of the Order directed the Respondents to make the payments in terms of prayer clause (a), (b) & (c) of the Application, within a period of Thirty (30) days.
- 5) Thereafter, the Applicant sent an E-mail on 23.12.2023 to the Respondents seeking compliance of the Order dated 21.11.2023. However, the Respondents did not bother to reply to the Applicant neither made any payment as directed by the Order dated 21.11.2023. Post which, the Applicant sent a reminder email as a final notice to the Respondents on 20.01.2024 calling them to make payment.
- 6) Applicant further submitted that no Appeal has been filed against an order of this Bench dt. 21.11.2023. It is crystal clear that the Respondents have not challenged the said order in the Application filed u/s 66 of the Insolvency and Bankruptcy Code, 2016.

- 7) This Bench observed that despite having knowledge of the said Order and having called upon by the Applicant to comply with the said order, Respondents till date, chose not to comply the same deliberately.
- 8) It is beneficial to take note of the Section 424(3) of the Companies Act, 2013, which reads as under:

(3) Any order made by the Tribunal or the Appellate Tribunal may be enforced by that Tribunal in the same manner as if it were a decree made by a court in a suit pending therein, and it shall be lawful for the Tribunal or the Appellate Tribunal to send for execution of its orders to the court within the local limits of whose jurisdiction, —

a. in the case of an order against a company, the registered office of the company is situate; or

b. in the case of an order against any other person, the person concerned voluntarily resides or carries on business or personally works for gain.”

- 9) After reading the Section 424(3) cited (supra), it very well empowers this Bench to pass necessary directions for the execution of the Orders passed by this Bench against the Respondents as the deliberate non-compliance of this Order by the Respondents is clearly evident from the facts and circumstances of the present Application.
- 10) In that view of the matter, we direct the Competent Civil Court having jurisdiction over Respondents Nos. 1 to 5 to execute order dt. 21.11.2023, passed by this Bench and recover the decretal amount from said Respondents. Registry is directed to apply to the Competent Civil Court along with copy of this Order.

11) With the aforesaid observations and directions, the Interlocutory Application bearing IA No. 1533 of 2024, is disposed of as Allowed. There will, however, be no order as to costs. Ordered Accordingly.

Sd/-

PRABHAT KUMAR
MEMBER (TECHNICAL)

Sd/-

JUSTICE VIRENDRASINGH BISHT
MEMBER (JUDICIAL)

Vedant Kedare