

**NATIONAL COMPANY LAW TRIBUNAL**

**COURT ROOM NO. 1,**

**MUMBAI BENCH**

**Item No. 19**

**IA 2558/2023 IN C.P. (IB)/1061(MB)2017**

CORAM:

**SH. PRABHAT KUMAR**

**JUSTICE V.G. BISHT (Retd.)**

**HON'BLE MEMBER (TECHNICAL)**

**HON'BLE MEMBER (JUDICIAL)**

ORDER SHEET OF THE HEARING ON **27.03.2024**

NAME OF THE PARTIES: **UNION BANK OF INDIA**

**V/s**

**GURUASHISH CONSTRUCTION PVT. LTD**

Section 7 Sec 60(5) of the Insolvency and Bankruptcy Code, 2016

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**ORDER**

Adv. Beverly F. Adv. D. B. Pereira for the Applicant is present through VC.

**IA 2558/2023**

1. The Applicant has filed this application under Section 60(5) r/w Rule 11 and 32 of the Insolvency and Bankruptcy Code, 2016 and seeking following relief –
  - a. To direct the Respondent No. 2 to de-freeze the Bank Account Nos. 0909020045478743 and 0911020066137248 of the Corporate Debtor with Axis Bank Bandra (West) Branch Mumbai 400050 and transfer the funds to the account of the Corporate Debtor maintained with IndusInd Bank Borivali Branch having Account No. 201006429912 in the name of "GURUASHISH CONSTRUCTION PRIVATE LIMITED IN LIQUIDATION" which was specifically opened for the purpose of Liquidation
  - b. Any other Order / Direction as this Hon'ble Adjudicating Authority may deem fit.
2. The Applicant Mr. Rajendra K. Bhuta was appointed as Insolvency Resolution Professional vide Order dated 24th July, 2017 passed by the Hon'ble NCLT, Mumbai

Bench, Court Room No. 1 in respect of the subject Application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 by the Financial Creditor Union Bank of India.

3. During the period of Moratorium i.e., on 15th October, 2019 the Respondent No. 1 issued letter to the Manager of Axis Bank informing him that the Banking Unit of Economic Offences Wing, Mumbai is investigating an offence vide E.O.W. C.R. No. 86/19 u/sec 406, 409, 420, 465, 467, 471, 120 (B) of I.P.C. registered on the complaint of officials of Punjab and Maharashtra Co-operative Bank Limited PCM Bank against its official, Directors of M/s. Housing Development and Infrastructure Limited (HDIL) and its group companies and others for committing alleged fraud of Rs. 4355/- crore. In this case funds in large amount have been siphoned off by diverting into various banks accounts of HDIL and its group companies and large funds have also been parked in various kinds of and forms of investment and therefore scrutiny of all such accounts/ Demat accounts / Investments is in process during the course of investigation.
4. It is reported that Guruashish Construction Pvt. Ltd. one of the group companies of HDIL holds Account No.911020066137248 with Axis Bank. In order to secure misappropriated funds, Respondent No.1 requested Axis Bank to comply with following:
  - 1) Debit freeze the Account No.911020066137248 of Guruashish Construction Pvt. Ltd.
  - 2) Debit freeze Demat accounts associated with the Account No.911020066137248 of Guruashish Pvt. Ltd.
  - 3) Put a Lien mark on all the Terms Deposits associated with the Account No.911020066137248 of Guruashish Construction Pvt. Ltd.
  - 4) Put a Lien mark on all the investments in all the forms associated with the Account No.911020066137248 of Guruashish Construction Pvt. Ltd.

- 5) Please inform details of all the borrowings of Guruashish Construction Pvt. Ltd. and securities provide against thereof.
- 6) To identify lockers associated with the Current Account No.911020066137248 of Guruashish Construction Pvt. Ltd. and put a lien on the same and also not to allow any further operation in the same.
5. Ld. Counsel for the Applicant Liquidator informs that the Respondents have placed on record the Charge-sheet. He further informs this Bench that the Bank Accounts being subject matter of present application are not being referred to as being part of the crime alleged in the Charge-sheet. Hence, those amounts could not be said to be proceeds of crime.
6. It is settled law that no agency can order the attachment and continue the same over the assets of the Corporate Debtor after commencement of moratorium. The Resolution Professional is duty bound to take custody and control of the assets for the Corporate Debtor for Resolution of the debt of the Corporate Debtor. Section 32A of the Code further reiterates this proposition of law whereby the assets of the Corporate Debtor stand discharged of an approval of a plan which is the culmination of Resolution process.
7. Accordingly, we consider it to appropriate direct the Respondent EOW to vacate the attachment over the account and inform Axis Bank within 15 days about such vacation of the attachment. The Axis Bank is directed to vacate the attachment in case no communication is received by them from the Respondent EOW after expiry of 15 days from the date of this order.

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**PRABHAT KUMAR**  
**MEMBER (TECHNICAL)**

Rehan Shaikh

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**JUSTICE V.G. BISHT**  
**MEMBER (JUDICIAL)**