

**NATIONAL COMPANY LAW TRIBUNAL**  
**COURT-I, MUMBAI BENCH**

Item 15

**IA 24/2023 IA 25/2023 IA 26/2023 IA 2584/2019 IN**

**C.P.(IB)292/MB/2017**

CORAM:

SH. SHYAM BABU GAUTAM  
HON'BLE MEMBER (T)

SHRI H.V. SUBBA RAO  
HON'BLE MEMBER(J)

ORDER SHEET OF THE HEARING ON **07.03.2023**

NAME OF THE PARTIES: - **M/s. Edelweiss Asset  
Reconstruction Company Ltd  
V/s  
M/s. Bharati Defence & Infrastructure Ltd**

*Appearance (via video-conference):*

For the Respondent : Adv. P.M. ATHAVALE

R-2 IN

IA 24/2023, IA 25/2023

IA 26/2023

: Adv. Mithilesh Kumar Pandey a/w  
Supreme Law House LLP,

IA 2584/2019

: Adv. Shyam Kapadia a/w Adv. Arjun  
Sathees a/w Adv. Udit Singh i/b  
INDIALAW LLP

For the Liquidator

: Mr. Pulkit Sharma, Adv., Mr.  
Abhishek Swaroop, Adv., Mr.  
Anupm Prakash, Adv., Mr. Naman  
Kamdar, Adv., and Mr. Vasu  
Manchanda, Adv., i/b Saraf and Partners

Section 60(5), 42, 7 of the IBC, 2016

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**ORDER**

**IA 25/2023**

This is an application filed by Square Four Housing & Infrastructure Development Private Limited Applicant and Successful Bidder in respect of E-auction dt. 17.09.2022 conducted by the Liquidator claiming following reliefs.

a) This Hon'ble Tribunal be pleased to pass necessary directions and /or orders directing the Liquidator to transfer and/or convey all the properties and assets as mentioned the said E-auction Public Announcement of Dabhol

Shipyards and issue sale Certificate in the name of Square Port Shipyards Private Limited, i.e. the subsidiary Company of the Successful Bidder.

b) This Hon'ble Tribunal be pleased to pass necessary directions and/or orders directing the Liquidator to transfer all the registration certificates, licenses, approvals, sanctions, permission etc, presently in the name of M/s. Bharti Defence and Infrastructure Limited and/or its unit Dabhol shipyard in the name of Square Port Shipyards Private Limited i.e., the subsidiary company of the successful bidder to run the same as going concern.

c) This Hon'ble Tribunal be pleased to pass necessary directions and/or orders directing the Liquidator to raise Pro Forma Invoice for the Bid Amount in favour of M/s Square Port Shipyards Private Limited i.e. the subsidiary Company of the Successful Bidder without adding GST thereon, since the transaction does not come under the CGST Act and Rules made thereunder.

d) That this Hon'ble Tribunal be pleased to pass necessary orders and/or directions directing the concerned Statutory local, and concerned Police Administration Dabhol shipyard to provide appropriate assistance to the Applicants by deputing its officer at time while the applicant are in taking physical and peaceful possession of the Dabhol Shipyards along with immovable & movable properties and assets, further, at the time of transporting movable i.e. obsolete machineries, equipment and others scraps from Dabhol Shipyards.

d) Necessary Orders be passed by the Hon'ble Tribunal directing the concerned Statutory Authority, local authority and police administration to provide appropriate assistance to Square Port Shipyards Private Limited, i.e. the subsidiary company of the Successful Bidder in taking smooth possession of the Dabhol shipyard and its immovable & movable properties and assets, taking out and/or transporting movable obsolete machineries, equipment, scraps from the site without facing any problem.

Heard Mr. Shyam Kapadiya Counsel appearing for the Applicant and Mr. Pulkit Sharma Counsel appearing for the Liquidator. Ld. Counsel appearing for the Applicant except once again requesting extension of time did not raise any question of fact or law on which, the applicant is entitled to claim the above reliefs. Admittedly, the Applicant failed to deposit the balance sale

consideration being successful bidder and upon his request this Bench vide its Order dt. 17.02.2023 passed the following order :

*“Ld. Sr. Advocate On instructions, seeks further time to deposit the entire sale consideration in the liquidation in the account of the Liquidator. Record reveals that, in terms of Order dt. 23.01.2023 the Successful Auction Purchaser sought time to deposit the entire sale consideration in the liquidation account of the liquidator on or before 02.02.2023. On that date, Successful Auction Purchaser sought time to deposit the entire sale consideration in the liquidation account of the liquidator on or before 14.02.2023 and was directed that the Auction Purchaser will have to pay the interest for this Interregnum period commencing from 02.02.2023 till 14.02.2023 at the rate of 12%.*

*Today, Ld. Sr. Advocate on instructions, seeks further time to deposit the entire sale consideration in account of the liquidator. Ld. Advocate for the Liquidator submits that to demonstrate their bonafide at least some amount needs to be deposited by the Applicant and the parties have arrived at the settled interest amount to be paid by the Applicant to the tune of Rs. 5,72,04,0789.00/- to be paid forthwith by the Applicant in the account of the Liquidator.*

*It is made clear that no further extension will be granted to the Applicant to deposit the entire sale consideration in the liquidation in the account of the Liquidator. Further it is made clear that in case Successful Auction Purchaser fails to deposit the entire sale consideration in the Liquidation in the account of the Liquidator, within this extended time limits, Liquidator of the Corporate Debtor is at liberty to take all necessary recourse as available under the law”* on equitable grounds.

Today also the same position the Ld. Counsel appearing for the Applicant except once again asking for time did not make out any case on merits. In view of the earlier self-operating Order passed by this Bench, this Tribunal has no option except to dismiss the above application. This Tribunal has also taken serious note of the conduct of the Applicant in approaching NCLAT and making false allegations against this Bench contending that, this Bench did not hear the above application on merits even though, the Counsel did not raise any legal issue on the earlier occasion except pleading mercy for

extension of time. With the aforesaid observations IA 25/2023 is rejected and disposed of.

**IA 24/2023, IA 26/2023, IA 2584/2019**

List these applications on Board on 10.04.2023.

**Sd/-**

SHYAM BABU GAUTAM  
Member (Technical)

Jagdish

**Sd/-**

H.V. SUBBA RAO  
Member (Judicial)