

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

Item No. 10

IA 74/2024 IA 5716/2023 IA 3346/2023 IA 4040/2023 IA 2140/2022 IVN.P
54/2023 Company Appeal 10/2023 IA 5244/2023 in C.P. (IB)/292(MB)2017

CORAM:

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

ORDER SHEET OF THE HEARING ON 31.01.2024

NAME OF THE PARTIES: **EDELWEISS ASSET RECONSTRUCTION**
COMPANY LTD. V/s BHARATI DEFENCE
& INFRASTRUCTURE LTD.

Section 7 of the Insolvency & Bankruptcy Code, 2016

ORDER

Adv. Ashish Pyasi, Counsel a/w Adv. Soham Bhalerao i/b DSK Legal for the Respondent in IA 5716 of 2023.

Adv. Ashish Pyasi, Counsel a/w Adv. Soham Bhalerao i/b DSK Legal for the Respondent in IA 4040 of 2023.

IA No. 74/2024 –

1. Mr. Rohit Gupta, Advocate appeared for the Applicant.
2. Learned Counsel for the Liquidator seeks some time to file reply. One-week time granted. Reply shall be filed by serving advance copy to the Applicant at least two days before the next date of hearing.
3. List this IA on **15.02.2024** for hearing.

IA No. 3346/2023 –

1. Mr. Ashraf Kapoor, Advocate appeared for the Respondent. .. 2 ..

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2. Counsel for the society informs that meeting is scheduled on 02.02.2024. Accordingly, seeks matter be listed after 02.02.2024 for compliance.
3. List this IA on **05.02.2024** for hearing.

IA No. 4040/2023 -

1. Mr. Ashish Pyasi, Advocate appeared for the MSEDCL.
2. Mr. Yash Momaya, Advocate appeared for the Applicant.
3. Learned Counsel for the auction purchaser informs that meeting has taken place and Counsel for the MSEDCL confirms this fact. The parties inform that they are hopeful resolution of the issue and seek adjournment.
4. List this IA on **15.02.2024** for further consideration.

IA No. 2140/2022

1. This IA is connected to IA No. 74/2024.
2. List this IA on **15.02.2024** for hearing.

Company Appeal no. 10/2023 –

1. Mr. Rohit Gupta, Advocate appeared for the Applicant in Intervention petition no. 54/2023.
2. Mr. Akshay Docotr, Advocate appeared for the Respondent.
3. Mr. Naman Kamdar, Advocate appeared for the Liquidator.
4. None present for the EPFO when the matter is called.
5. They were absent on the last hearing also.
6. Heard Counsel appearing for the Appellant and **Reserved for Order**.
7. Intervention 54/2023 is connected to Company Appeal No. 10/2023.
8. IVN.P. No. 10/2023 is also **Reserved for Order**.
9. All the parties be at liberty to file their written notes of arguments not more than 2-3 pages within one week.

IA No. 5244/2023 –

1. Mr. Akshay Doctor, Advocate appeared for the Respondent no. 1.
2. Learned Counsel appearing for the Grampanchayat Usgaon informs that

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they are ready to refund the monies as lying with the Bank of India and the account is at present under freeze and for de-freezing of the account they have already approached the Bank of India.

3. Bank of India is directed to expedite for de-freezing of the bank account of the Grampanchayat Usgaon.
4. In the order dated 08.01.2024, Mr. Akshay Doctor was stated to have appeared as Counsel for the Applicant. However, he represented Respondent no. 1. The said mistake is rectified and the Order dated 8.1.2024 shall stand modified to this extent.
5. In view of above, **IA No. 5244/2023** is **disposed of**.

IA No. 5716/2023 –

1. Mr. Soham Bhalerao, Advocate i/b DSK Legal appeared for the Respondent.
2. The present application has been filed by Mr. Vijaykumar V. Iyer, the Liquidator of M/s. Bharati Defence and Infrastructure Limited under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 r/w Rule 154 and Rule 11 of the NCLT Rules, 2016 seeking clarification/rectification of the order dated 10.11.2023 passed in IA No. 2525/2021.
3. It is submitted that IA No. 2525/2021 was partly allowed. A bare perusal of the order reveals that while reliefs sought by the Applicant in the MSEDCL application (prayer clause (a) and (d) vis-à-vis the Dabhol Shipyard of the Corporate Debtor have been categorically allowed by way of order of this Bench, similar prayer sought by the Applicant by way of prayer clauses (b) and (e) of the said application, which pertain to the Ratnagiri Shipyard of the Corporate Debtor have been inadvertently

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missed and/or omitted to be dealt with. The outcomes of the reliefs (b) and (e) of the MSEDCL application thus remain unclear thereby necessitating the present application.

4. We have perused the material available on record.
5. The IA No. 2525 of 2021 pertains to the application in respect of Electricity connection of Dabhol as well as Ratnagiri Shipyard. This Bench had allowed the Applicant's prayer for reduction in the load and restoration of the connection within 15 days from the date of this order subject to payment of electricity dues for the period from the liquidation commencement date by the liquidator. Since, the facts pertaining to Dabhol Shipyard were taken up for consideration in the finding, the Applicant has sought clarification as to whether the similar decision shall be applicable to prayer in relation to the Ratnagiri Shipyard. We clarify that the said order shall also be applicable to the Ratnagiri Shipyard. As regards Ratnagiri Shipyard, the reduction in the load shall be determined on the basis of average of the actual units of the electricity consumed from 19.03.2019. It is also clarified that any amount deposited in excess in relation to the Ratnagiri Shipyard shall be appropriated towards the pending dues for the period from liquidation commencement date. The Respondent shall be entitled to raise invoice for the minimum tariff even during the disconnection period in respect of the Ratnagiri Shipyard. It is also further clarified that minimum tariff shall mean the tariff determined with respect to reduced load.
6. With the above clarification, IA No. **5716/2023** is disposed of.

Sd/-
PRABHAT KUMAR
MEMBER (TECHNICAL)

Sd/-
JUSTICE VIRENDRASINGH BISHT
MEMBER (JUDICIAL)