

**5NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH**  
**COURT III**

109. I.A. 1364/2022, I.A. 1620/2022  
I.A. 3942/2022, I.A. 3289/2023  
Company Appeal/37/2023, I.A. 832/2024  
In C.P.(IB)-4301(MB)/2018

CORAM: MS. LAKSHMI GURUNG, MEMBER (J)  
SH. CHARANJEET SINGH GULATI, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL  
COMPANY LAW TRIBUNAL ON **08.05.2024**

NAME OF THE PARTIES: BMW Financial Services Private Limited

V/s.

S K Wheels Private Limited.

**Appearance**

**For Appellant:** Adv. Aayush Kothari a/w Adv. Shreyansh Desai i/b M/s V. Deshpande & Co. in C.A.37/2023 is present physically.

**For RP:** Adv. Vishal Jain is present physically.

**For SRA:** Adv. Aditya Gauri, Adv. Amar Vivek Adv. Dhananjaya Sud

**For Respondent:** Adv Dhruvee Patel i/b Economic Laws Practice for R-1 in IA 832/2024

Adv. Chintan Gandhi i/b Rajani Associates for Respondent No 4 in IA 832 of 2024 & Adv. Khyati Bora i/b D M Legal Ventures for Respondent No. 10 in CP 4301 of 2018 all above counsel are through VC.

SECTION 7 OF THE IBC, 2016

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**ORDER**

**Hearing Through: Virtually and Physical (Hybrid) Mode**

**I.A. 1364/2022**

This application has been filed by SRA, seeking exclusion of 55 days from 01.01.2022 to 28.02.2022 and extension of timeline for making balance payment of the Resolution plan value by four and half months from 01.03.2022 on account of Covid-19 lockdown.

Subsequent development has been brought to our attention wherein Hon'ble NCLAT in Company Appeal (AT) Insolvency No. 499/2023 dated 29.04.2024 has passed following order and noting that the SRA has already deposited the amount and has permitted the distribution of the amount as per the resolution plan in following terms:

*“33. In result, we allow the Appeal, set aside the impugned order dated 13.02.2023 passed in I.A. No. 2767 of 2022 and dismiss I.A. No. 2767 of 2022. The SRA having already deposited the amount along with interest @ 10% in the form of fixed deposit before the largest Financial Creditor, as permitted by Resolution dated 02.12.2022 by the Financial Creditors, the RP shall proceed to distribute the amount to the Financial Creditors as per the Resolution Plan and decision of the Financial Creditors dated 02.12.2022, from the amounts already deposited by the SRA. Both the Appeal are allowed accordingly, Pending I.A.s if any, are also stand disposed of. No order as to costs.”*

In view of the fact that the amount has already being deposited by SRA along with the interest, the present application has become infructuous.

Accordingly, I.A. 1364/2022 is **disposed of** as rendered **infructuous**.

### **I.A.3942/2022**

This application has been filed by RP, under Rule 11 of the NCLT rules, 2016 to place on record the Status Report of the Implementation of the Resolution Plan as on 19.12.2022. in Compliance with order dated 04.05.2022 of this Hon'ble Tribunal. The same is taken on record. Accordingly, I.A. 3942/2022 is **allowed** and **disposed of**.

### **Company Appeal 37/2023**

This application has been filed by Applicant, Cosmos Co-operative Bank Ltd. seeking condonation of delay of 20 days in filing Claim. However, liquidation has been *set aside* the present company appeal does not survive. Therefore,

Ld. Counsel for the Applicant seeks to withdraw the same. Accordingly, the Company Appeal 37/2023 is **dismissed** as **withdrawn**.

**I.A.1620/2022**

This application has been filed by Commissioner of CGST & Central Excise. However, none appeared for the Applicant. We direct the RP to serve a private notice on the applicant. We note that the present application is pending since 2022 and the applicant is not pursuing the same. One last and final opportunity is granted to Applicant for appearance and submission. List on **08.07.2024** for appearance/dismissal.

**I.A. 832/2024**

Ld. Counsel for the SRA submits that reply was received yesterday and seeks time to peruse the same and permission to file rejoinder. Request considered. Rejoinder if any, be filed within two weeks.

Ld. Counsel for R-4 submits that reply is ready and is in the process of filing the same. Let the reply be filed within a week after serving on the other side.

One last and final opportunity is given to R-2 and R-3 to file reply within a week failing which their right to file reply shall stand forfeited. Matter is adjourned to **10.07.2024**.

**I.A. 3289/2023**

List on **10.05.2024**.

Sd/-  
CHARANJEET SINGH GULATI  
Member (Technical)  
//NSW//

Sd/-  
LAKSHMI GURUNG  
Member (Judicial)