

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH

COURT III

121. I.A. 2166/2021

In

C.P.(IB)-1619(MB)/2019

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 **03.04.2024**

NAME OF THE PARTIES: Sai Projects and Engineers Pvt. Ltd.

V/s.

Kalpyog Chemicals Pvt. Ltd.

Appearances:

For Petitioner: Jehaan Mehta a/w. Akshay Zantye is present through
VC.

For Respondent: Adv. Shruti Pednekar a/w Adv. Sameer Tiwari i/b.
Amit Karle for the R-1 in I.A.2166/2021 through VC.

SECTION 7 OF IBC, 2016

ORDER

Hearing Through: Virtually and Physical (Hybrid) Mode

I.A.2166/2021

1. This application has been filed by RP under Section 66 seeking *inter alia* prayers as follows:

“(c) *The Honble Tribunal be pleased to declare the aforesaid transactions as fraudulent and wrongful trading in accordance with Section 66 of the Code and thereby direct the Respondent No.1 to contribute and transfer an equivalent amount involved in the undervalued transactions of the Applicant*”.

(d) Alternatively, the Hon'ble Tribunal be pleased to declare the aforesaid transactions as fraudulent and wrongful trading in accordance with Section 66 of the Code and thereby direct the Respondent No.2 to 4 being suspended directors of Corporate Debtor to contribute and transfer an equivalent amount involved in the undervalued transactions to the assets of the Corporate Debtor.”

2. It was submitted by R-1, i.e. Hemadri Chemicals (Sole Proprietorship, Proprietor Hemadri Hemant Upadhyay) that at the request of the directors of CD, R-1 had issued bearer cheques to CD to the tune of Rs. 33,86,279 which have already been encashed. Therefore, we had directed R-1 to approach Bank and obtain bank certificate to reveal the name of the person, who had withdrawn the cash.
3. R-1 has filed Affidavit on 16.01.2024 and has annexed bank certificate issued by IDBI Bank on 11.01.2024 wherein the bank has clearly indicated that the cash has been withdrawn by Mr. Chandshekhar Gopal Karanjgaonkar (R-2) on behalf of Kalpyog Chemicals Pvt. Ltd.
4. It is thus abundantly clear that R-2 has withdrawn Rs. 33,86,279/- on behalf of the CD and but not deposited with the CD and fraudulently appropriated to himself. It is informed by the Applicant that that CD has been dissolved and the present applicant is the assignee therefore, the above mentioned amount has to be deposited in the account of the Applicant. Accordingly, we direct R-2 to deposit Rs. 33,86,279/- in the account of the Applicant within 2 weeks. Applicant to provide bank details to R-2.

I.A. 2166/2021 is allowed and disposed of.

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

Sd/-
LAKSHMI GURUNG
Member (Judicial)