

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II

15. IA 5330/2023 IA 2786/2022 IA 2744/2023 IA 2555/2023
IA 1042/2023 IA 4141/2023 IA 4173/2023
In C.P. (IB)/2849(MB)2018

CORAM:

SHRI ANIL RAJ CHELLAN
HON'BLE MEMBER (T)

SHRI KULDIP KUMAR KAREER
HON'BLE MEMBER (J)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 12.04.2024

NAME OF THE PARTIES: - 5330/2023 JSK Estates Pvt Ltd
V/s
Mr Sundaresh Bhat Liquidator of
Emco Limited
IA 2786/2022 Maheshsingh Thakur
V/s
Sunderash Bhat
IA 2744/2023 Mr. Sundaresh Bhat
Liquidator
V/s
Sherisha Powertech Pvt. Ltd.
IA 2555/2023 Mr. Sundaresh Bhat
Liquidator
IA 1042/2023 Mr. Sundaresh Bhat
Liquidator of Emco Limited
IA 4141/2023 Sherisha Powertech
Pvt Ltd
V/s
Mr. Sundaresh Bhat
IA 4173/2023 Commercial Taxes
Department
V/s
Sudaresh Bhat
IN THE MATTER OF
Jet Roadlines (India) Pvt. Ltd
V/s
EMCO Ltd.

Section: 42 Application under any other provisions - IBC, Sec 66(1), Rule 11 of NCLT, 2016 Sec 60(5) U/s 7 of (IBC)

ORDER

IA.No.5330/2023: - Sr. Adv. Mustafa Doctor a/w Adv. Ankit Lohia, Adv. Vinodini Srinivasan, Adv. Ajay Vazirani appeared for the Applicant. Adv. Rohit Gupta a/w Adv. Ayush Rajani a/w Adv. Khushboo Shah appeared for the Respondent. Sr. Adv. Navroz Seervai a/w Adv. Pooja Mahajan & Adv. Saurabh Bachhawat appeared for the Respondent. The matter was partly heard. During the course of argument counsel for the applicant requested that the Respondent No.2 be restrained from alienating or creating any third-party interest in the property in question. Counsel for the Respondent No.2 Sr. Adv. Navroz Seervai stated at bar that so far as the Property at Plot No. F-5 admeasuring 25,016 square meters together with industrial buildings constructed thereon, situated at village Panchpakhadi, Wagle Industrial Estate (Thane Industrial Estate) Taluka and District Thane is concerned, the Respondent No.2 has no intention of alienating the same at this stage. List this matter for further hearing on **25.04.2024**.

IA.No.2744/2023: - Adv. Ayush Rajani a/w Adv. Khushboo Shah appeared for the Applicant/Liquidator. This IA has been filed by the Liquidator seeking, inter-alia, directions against the Respondent/ Successful bidder to pay any shortfall in employee benefit of the Corporate Debtor including any dues towards provident and gratuity funds. It has been stated at bar by the counsel for the Liquidator that in a second affidavit dated 27.02.2024, the liquidator has stated that he has received a letter dated 23.02.2024 from the successful bidder whereby the latter has given an undertaking to pay all the statutory dues including Provident

Fund and gratuity wherever payable including any shortfall of the previous period. The counsel for the Liquidator further states that in view of the clear-cut undertaking given by the successful bidder, the matter stands settled and he does not wish to proceed with the application any further. In view of the statement made by the counsel for the Liquidator, this **IA.No.2744/2023 stands disposed of** having been withdrawn on the basis of undertaking given by the successful bidder.

IA.No.4141/2023: - Adv. Ayush Rajani a/w Adv. Khushboo Shah appeared for the Applicant/Liquidator. This IA has been filed by the applicant/successful bidder seeking certain documents referred to and relied upon by the Liquidator in IA.No.2744/2023. Since the IA.No.2744/2023 has already been disposed of vide an order of even date **this application No.4141/2023 does not survive and is also disposed of having become infructuous.**

IA.No.2555/2023: - Adv. Ayush Rajani a/w Adv. Khushboo Shah appeared for the Applicant/Liquidator. This IA has been filed by the Liquidator for rectification of order dated 01.06.2023 passed in IA.No.2277/2021. It has been pointed out that there are some errors and omissions in the order dated 01.06.2023 which need to be rectified. It has further been pointed out that in the order dated 01.06.2023 the number of workers is mentioned as 51 instead of 65. Similarly, the words “towards gratuity funds payable to the workmen” have also not been mentioned. It has further been pointed out that it also needs to be mentioned in the order in question that the Corporate Debtor has already been sold as going concern and further that the Liquidator would facilitate in distribution of the available balance in gratuity and provident funds, if any, to the eligible employee/workmen on proportionate basis.

In the light of these facts we hereby allow the application and correct the order dated 01.06.2023 which will now be read as under: -

*“IA-2277/2021 – This Application is filed by 65 workmen to direct the Liquidator to distribute **provident fund, gratuity fund to the workmen. The counsel appearing for the Liquidator submitted that the Corporate Debtor was already sold as going concern and the new management has taken over. So the Liquidator would facilitate in distribution of the available balance in gratuity fund and provident fund if any, to eligible employee/workmen on proportionate basis. Prayer (b) and (c) are treated as infructuous and accordingly** with the above observations IA-2277/2021 is allowed and disposed of”.*

With the aforesaid terms, the **IA.No.2555/2023 is allowed and disposed of** to the extent indicated above.

IA.No.2786/2022, IA.No.1042/2023, IA.No.4173/2023: - List this matter on **05.06.2024**.

Sd/-
ANIL RAJ CHELLAN
Member (Technical)

JAGDISH

Sd/-
KULDIP KUMAR KAREER
Member (Judicial)