

**THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-I**

I.A. 3792 OF 2022

Under Section 60(5) of Insolvency &
Bankruptcy Code, 2016

Satra Properties India Limited

...Applicant

V/s

Nagar Nigam Jodhpur (North)

...Respondent

In the matter of

C.P.(IB) No. 1632/MB/2019

Vistra ITCL (India) Limited

Financial Creditor

Vs.

M/s Satra Properties India Limited

Corporate Debtor

Order delivered on: 02.04.2024

Coram:

Shri Prabhat Kumar

Hon'ble Member (Technical)

Appearances

Justice Shri V.G. Bisht

Hon'ble Member (Judicial)

For the RP : Mr. Pulkit Sharma, Advocate
For the Respondent : None

ORDER

Per: Prabhat Kumar, Member (Technical)

1. This Application IA 3792/2022 is filed under Section 60(5) of the Insolvency & Bankruptcy Code, 2016 (“Code”) read with Rule 11 of the NCLT Rules, 2016 by Satra Properties India Limited (“Applicant”) in the Corporate Insolvency Resolution Process (“CIRP”) of M/s Satra Properties (India) Limited (“Corporate Debtor”), seeking following reliefs:
 - a. Be pleased to direct the Respondent and its office to remove the seal on all the assets and properties of the Corporate Debtor,
 - b. Be pleased to direct the Respondent to release the attachment on all the assets and properties of the Corporate Debtor and hand over the charge to the Applicant/Resolution Professional;
2. That by virtue of order dated 03rd August 2020 as passed by this Tribunal, the CIRP was initiated against the Corporate Debtor and one Mr. Devarajan Raman was appointed as the Interim Resolution Professional of the Corporate Debtor. Mr. Devarajan Raman was later confirmed as the Resolution Professional of the Corporate Debtor by majority of the members of the Committee of Creditors (CoC).
 - 2.1. That after the initiation of CIRP against the Corporate Debtor, the Respondent addressed a letter dated 28th November 2020 to the Corporate Debtor calling upon the Corporate Debtor to pay city development tax amounting to Rs. 13,03,231/-

- 2.2. That immediately thereafter the erstwhile Resolution Professional addressed an email dated 1 December 2020 informing the office of the Respondent about the initiation of CIRP against the Corporate Debtor and moratorium as per Section 14 of the Code
- 2.3. That office of the Respondent addressed a letter dated 12 May 2022 [Ref No. 2199] to the Corporate Debtor hereby calling upon the Corporate Debtor to repay an amount of Rs. 15,96,834/-
- 2.4. That the office of the Respondent has attached the assets belonging to the Corporate Debtor on 13th May 2022 as part of certain proceedings initiated by the office of the Respondent against the Corporate Debtor.
- 2.5. That immediately thereafter, the erstwhile Resolution Professional addressed an email dated 13th May 2022 to the Respondent once again informing about the initiation of CIRP and further stating that the sealing of the property by the Respondent is illegal and attracts the provisions of contempt as the Respondent has violated this NCLT order dated 03 August 2020.
- 2.6. That the Applicant is appointed as the Resolution Professional of the Corporate Debtor by this Hon'ble NCLT vide order dated 22 September 2022.
- 2.7. That after the appointment of the Applicant as the Resolution Professional of the Corporate Debtor, the Applicant addressed a letter dated 07th November 2022 by giving reference to the letter no. 2199 of the Respondent. The Applicant intimated the Respondent about initiation of CIRP against the Corporate Debtor, imposition of moratorium and appointment of the

Applicant as the Resolution Professional of the Corporate Debtor

- 2.8. That the Applicant has also made intimation of taking the custody of the property of the Corporate Debtor under Section 25(2)(a) of IBC.
3. Heard learned counsel and perused the materials on record.
- 3.1. This Application have been filed challenging the letter dated 12.05.2022 written by the Commissioner Nagar Nigam Jodhpur to Revenue Officer u/s 131(1) and 133(3) of Rajasthan Nagar Palika Adhinyam, 2009 for execution of Demand Notice.
- 3.2. On 26.10.2023, the Applicant was directed to issue a notice upon the Respondent and the same was served upon the Respondent on 21.11.2023. The Respondent filed affidavit of service to this effect with this Tribunal on 28.11.2023. However, the Respondent chose not to appear and did not file any reply on the successive hearings.
- 3.3. The Resolution Professional vide letter dated 07.11.2022 and other earlier communications had informed the Commissioner, Nagar Nigam, Jodhpur, about the provisions of IBC Code and informed that there order to see the Corporate Debtor premises has made the premises inaccessible which is not permissible in accordance with Section 14 and 18 of the Code.
- 3.4. In this case the CIRP commenced on 03.08.2020 and the attachment order was passed on 12.05.2022 for recovery of outstanding dues payable by the Corporates Debtor. In terms of the Section of the Code bars any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Accordingly, the said attachment order dated 12.05.2022 is per se illegal and ought to be vacated with immediate effect.

3.5. It is trite law that dues of the creditors are to be settled in accordance with approved resolution plan or section 53 of the Code as the case may be. Accordingly, the dues of the Respondent shall also be settled.

4. In view of the above, I.A. 3792/2022 is allowed and disposed of.

Sd/-

Prabhat Kumar
Member (Technical)

Sd/-

Justice V.G. Bisht
Member (Judicial)