

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

C.P. No.07/GB/2021

Coram:

Hon'ble Shri H. V. Subba Rao, Member (J):

Hearing through

Hon'ble Shri Prasanta Kumar Mohanty, Member (T): Video Conference

**ATTENDANCE-CUM- ORDER SHEET OF THE HEARING OF GUWAHATI
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 06.09.2021**

Name of the Company: Dihingia Motors Pvt. Ltd. & others

V/s

Registrar of Companies, Guwahati

Section of the Companies Act: Under Section 252 (1) of Companies Act, 2013
read with rule 87A of NCLT Rules, 2016

<u>S. NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	MR. K. MADAN	Advocate	Petitioner	Present in Video Conference
2.	NONE	-	ROC	
2.	MR. SANJAY SARMA	Advocate	Respondent (Income Tax Dept.)	

ORDER

Date of Order: 06.09.2021

The matter is taken up for hearing through Video Conferencing. The Learned Counsel for the Petitioners Mr. K. Madan is present. Learned Counsel Mr. Sanjay Sarma is present representing the Income Tax Authority. No one is present for the other Respondent.

2. In our earlier order the Petitioners were directed to file an Affidavit that no bad transaction has been undertaken during the demonetization period along with bank statement of the Petitioner Company. The learned Counsel appearing for the Petitioners has confirmed that the Affidavit has been filed along with the bank statement as per the direction of this Hon'ble Bench. There is no representation from the side of the ROC and no reply has been received from the ROC despite notice served upon from the Registry and intimation from the Petitioner. Hence, it is construed that the ROC has no objection to / or submission to the Petition. The learned Counsel for the Income Tax Authority has confirmed that he has filed his

written submission and informed that he has no objection to the restoration of the Petitioner Company but, they have some claims against the Petitioner Company which is already mentioned in its reply. Heard both the sides.

3. **Order is reserved.**

Sd/-
(Prasanta Kumar Mohanty)
Member (Technical)
/DeKa-06.09.2021/

Sd/-
(H. V. Subba Rao)
Member (Judicial)

**IA No.10 OF 2021
IN
C.P. (IB) No.37/GB/2019**

Hon'ble Shri H. V. Subba Rao, Member (J): Hearing through
Hon'ble Shri Prasanta Kumar Mohanty, Member (T): Video Conference

<u>S. NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	MR. PRANAY AGARWAL	Advocate	Petitioner/RP	Present in Video Conference
2.	MR. PRADEEP KR. GOENKA	RP	in person	
3.	MR. S. DUTTA	Advocate	BOI	
4.	MR. RAKESH DUBEY	Advocate	Respondent / CD	

issues like a Suit filed by the CD, a Writ pending before the Hon'ble High Court, FIR filed with an Investigating Agency, report to RBI etc. It is also not clear whether the Resolution Plan submitted by the CD is not approved by the CoC on account of such issues when such issues are apparently not related to acceptance of the Resolution Plan and rescue of the Stressed Assets with its employees from the Liquidation. It is made clear that the objectives of the IBC are very clear and liquidation of a MSME Unit is the last resort. Hence, CoC needs to clarify those points. The learned Counsel appearing for the CoC has sought two days' time to clarify the points.

3. List the matter on 09.09.2021.

Sd/-
(Prasanta Kumar Mohanty)
Member (Technical)
& Adjudicating Authority
/Deka- 06.09.2021/

Sd/-
(H. V. Subba Rao)
Member (Judicial)
& Adjudicating Authority

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

**Cont. Appln. No.03 of 2018
With
IA No.51 of 2019
IA No.52 of 2019
IA No.53 of 2019
IA No.54 of 2019
And
Cont. Appln. No.05 of 2021
IN
C.P.No.89 of 2011
(CP disposed of on 27.05.2011)**

Coram:

Hon'ble Shri H. V. Subba Rao, Member (J): **Hearing through**
Hon'ble Shri Prasanta Kumar Mohanty, Member (T): **Video Conference**

**ATTENDANCE-CUM- ORDER SHEET OF THE HEARING OF GUWAHATI
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 06.09.2021**

Cont. Appln. No.03 of 2018

Name of the Company: 3A Capital Pvt. Ltd.

V/s

Prag Bosimi Synthetics Ltd. & Ors.

Section of the Companies Act: Under Section 425 of Companies Act, 2013

IA No.51 of 2019

IA No.52 of 2019

IA No.53 of 2019

IA No.54 of 2019

Name of the Company:

**Mrinal Kanti Das [Respondent No.5 in Contempt
Application No.03 of 2018]**

**Hemanga Kirhore Sharma [Respondent No.7 in
Contempt Application No.03 of 2018]**

**Hemanga Kirhore Sharma [Respondent No.7 in
Contempt Application No.03 of 2018]**

**Deepali Rajneesh Pathak [Respondent No.8 in
Contempt Application No.03 of 2018]**

V/s

3A Capital Services Ltd.

Section: Under Rule 7 of Contempt of Courts (Gauhati High Court) Rules, 1977

S. NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION
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1.	MR. R. PANDEY	Advocate	Petitioner
2.	MR. KAUSTAV MAHANTA	Advocate	Petitioner
3.	MR. PRADEEP SANCHETI	Sr. Advocate R-1	R- Prag Bosimi
4.	MR. R. J. DAS	Advocate	& its directors
5.	MR. SAGAR GHOGRE	Advocate	

Cont. Appln. No.05 of 2021

Name of the Company: Prag Bosimi Synthetics Ltd. & Ors.
V/s
3A Capital Pvt. Ltd.

Section of the Companies Act: Under Rule 11 of NCLT Rules, 2016

S. NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION
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1.	MR. PRADEEP SANCHETI	Sr. Advocate	Petitioners
2.	MR. R. J. DAS	Advocate	Petitioners
3.	MR. SAGAR GHOGRE	Advocate	Petitioners
4.	MR. R. PANDEY	Advocate	Respondent
5.	MR. K. M. MAHANTA	Advocate	Respondent

Cont. Appln. No.05 of 2021

ORDER

Date of Order: 06.09.2021

Matter is taken up through video conferencing. Learned Sr. Counsel for the Petitioners Mr. Pradeep Sancheti is present supported by Mr. R. J. Das and Mr. Sagar Ghogre. From the side of the Respondent learned Counsels Mr. R. Pandey and Mr. K. M. Mahanta are present.

2. The learned Counsel of the Petitioners has prayed for dismissal of the Contempt Petition No.3 of 2018 as not maintainable. He has also filed written submissions wherein he has prayed for dismissal of the Contempt Petition citing numbers of judgments of the Hon'ble Supreme Court. On the other hand, the learned Counsel for the Respondent has also filed written submissions and argued that the matter is being dragged by the Respondents for many years and this

application has been filed after three years opposing the Contempt Petition filed by them in the year 2018. He has also cited the judgments of the Hon'ble CLB, Kolkata, Hon'ble High Court and the Hon'ble Supreme Court and argued that the judgment of the Hon'ble CLB, Kolkata, has been upheld by the Hon'ble High Court and the Hon'ble Supreme Court. The Hon'ble Supreme Court has dismissed the SLP filed by the Respondent Company Prag Bosimi Synthetics Ltd. Hence, the order of the Hon'ble CLB, Kolkata is operative. **Heard the arguments from both the sides at length.**

3. Matter is reserved for orders.

Cont. Appln. No.03 of 2018

4. Learned Counsels Mr. R. Pandey and Mr. K. M. Mahanta are present on behalf of the Applicant. Mr. R. J. Das, Mr. Sagar Ghoghre led by learned Sr. Counsel Mr. Pradeep Sancheti are present on behalf of the Respondents. Learned Sr. Counsel Mr. Pradeep Sancheti has argued the matter. The learned Counsel for the Respondents has submitted that the Respondent No.2, Shri Hemanta Bhanushankar Vyas and the Respondent No.5, Shri Mrinal Kanti Das expired and requested for dropping them from this case.

5. Matter was heard at length.

6. However, the following clarification / information is sought from the Petitioner and the Respondents under Rule 43 of the NCLT Rules, which may enable us to pass orders in the Petition

- (i) The Petitioner is to submit detailed calculation sheet taking the notional amount of Rs.1.00 lac (Rupees One lac) only at the Petitioner's Bank Base rate plus 4% from 31.03.2010 / 01.07.2010 till the MCLR is introduced and thereafter at MCLR (one year) plus 4% from that date till 31.08.2021. Interest is to be calculated with monthly compounding rate.
- (ii) The petitioner is further directed to submit a calculation sheet with regard to the legal expenses incurred by it from 12.04.2010 till

05.03.2021, which is paid in the form of Cheque/NEFT only. They have to calculate interest on the amount spent towards legal expenses at the same rate as mentioned in Para 6 (i) above considering as and when the amount was paid.

- (iii) This needs to be filed in the form of an Affidavit along with supporting documents of the legal expenses made within 7 days from today.
- (iv) The copy of the original Share Certificates held by the Petitioner are to be filed with the Registry within 7 days from today.

7. The Respondents have filed Affidavit on 04.03.2021 but there is no clarity. They have to file fresh Affidavit as called for in our earlier order dated 09.02.2021, especially relating to the details of Settlement made and amount paid for the similar shares (like these 30 lakhs shares) i.e. RCCPs Shares (Interest Conversion), RCCPs (funded) and CCPs (funded) to other shareholders with dates of payment made. This is to be furnished within 7 days from today.

8. Both the Petitioner and the Respondents are at liberty to file further submissions, if any, within 7 days from today in relation to both Cont. Application No.5/2021 and No.3/2018.

9. **Since, the Respondents No.2 and 5 are no more and they were working in their official capacity as Managing Director and Director respectively, their names are hereby dropped from this case as prayed for. The learned Counsel is advised to file, if not filed earlier, the copy of death certificates of the Respondents No.2 and 5 for record.**

10. **The matter is reserved for orders.**

ORDER

IA No.51 of 2019
IA No.52 of 2019
IA No.53 of 2019
IA No.54 of 2019

11. The learned Senior Counsel appearing for the above IAs has prayed for 7 days' time to file short submissions in 2/3 pages. Heard both the sides at length. The

Petitioner is at liberty to file short submissions, if any, in 2/3 pages within 7 days from today relating to IA 52, 53 and 54 of 2019 only.

12. IA No.51 of 2019 filed by the Respondent No.5 is disposed of as the Petitioner is no more and his name has been dropped from the Contempt Petition No.3 of 2018.

13. All the other IAs i.e. IA No.52, 53 and 54 of 2019 along with the Contempt Application No. 3 of 2018 and Contempt Application No.5 of 2021 are reserved for orders.

Sd/-

**(Prasanta Kumar Mohanty)
Member (Technical)
(Judicial)**

//deka/06.09.2021//

Sd/-

**(H. V. Subba Rao)
Member**