

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, MUMBAI

C.P.(IB)-292/(MB)/2017

MA 891/2019, MA 2435/2019, MA 2165/2019  
MA 1516/2019, MA 1267/2019, MA 1268/2019  
MA 1940/2019, MA 1081/2018, MA 2584/2019  
MA 2884/2019, MA 3185/2019, MA 3165/2019  
MA 3098/2019, MA 3702/2019, MA 3733/2019  
MA 3300/2019, MA 3897/2019

CORAM: SHRI RAJESH SHARMA  
MEMBER (T)

SHRI BHASKARA PANTULA MOHAN  
MEMBER (J)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL  
COMPANY LAW TRIBUNAL ON 02.01.2020

NAME OF THE PARTIES: M/s Edelweiss Asset Reconstruction Company Ltd  
V/s  
M/s Bharati Defence & Infrastructure Ltd

Section 7 of Insolvency & Bankruptcy Code 2016.

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**ORDER**

**116. MA 891/2019, MA 2435/2019, MA 2165/2019, MA 1516/2019,  
MA 1267/2019, MA 1268/2019, MA 1940/2019, MA 1081/2018,  
MA 2584/2019, MA 2884/2019, MA 3185/2019, MA 3165/2019,  
MA 3098/2019, MA 3702/2019, MA 3733/2019, MA 3300/2019,  
MA 3897/2019 In CP (IB) 292/(MB)/2017**

**In MA 1940/2019**, the Bank is directed to release the money as prayed for in the said application within 10 days from the date of this order.

In other MAs, we have heard the Liquidator, the Resolution Applicant and the Financial Creditor. It has been the contention of the Financial Creditor that if the undertaking is sold as a piecemeal basis, the same

would fetch better value and the time period of almost one year as required by the Liquidator for selling the undertaking as a going concern is already over and there is no guarantee how long it will take to complete the process. On the other hand, the Resolution Applicant who submits that he is ready to offer Rs.6,700 crores for taking over the project, provided the Earnest Money Deposit is reasonably reduced.

We have also heard the Liquidator who submits that there is still a reasonable chance for finding a good buyer in case the Earnest Money Deposit amounts are kept at reasonable level and not in comparison with the asset value.

It has already been informed that Liquidator has made very serious attempt with the Government of India, Public Sector Undertakings who are involved in this kind of business. We once again reiterate that the Liquidator may again approach the Government of India, Public Sector Undertakings in particular the Shipyards, Mazgaon Dock and other undertakings who are similarly situated as that of the Corporate Debtor and try to find somebody to take over the Undertaking.

In case, the Government of India Public Sector Undertakings come forward to take over the undertaking, this Court will have a reasonable and better approach towards them without there being any discrimination as compared to other private sector companies coming forward to take over the undertaking. But since it is a Government, we are prepared to go soft as regards the EMD also in the public interest. The reasonable classification that is required to be shown to the Government of India Public Sector Undertakings is purely in public interest, because Govt public Sector Undertakings represent the Government of India and unless some special favour is shown to them, the objective of IBC cannot be achieved. Therefore, we would like to fix an amount of Rs.25 crores as Earnest Money Deposit and we call upon the Liquidator to go for fresh Expression of Interest and make his best efforts to approach all the possible known clients in the market and if necessary take the help of this

Bench for any further interaction and make his best efforts to achieve the object, at the earliest point of time.

List the matter for further consideration on 4.3.2020. In the meanwhile, if any developments take place, the Liquidator is at liberty to approach this Bench and seek further clarification by making a mention in the open court.

Sd/-  
**RAJESH SHARMA**  
Member (Technical)

Sd/-  
**BHASKARA PANTULA MOHAN**  
Member (Judicial)