

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI
COURT-I

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

MA 695/2020, MA 350/2020, MA 286/2020, 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:

SMT. SUCHITRA KANUPARTHI

MEMBER (J)

SHRI V. NALLASENAPATHY

MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON 04.03.2020

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

Section 7 of the Insolvency and Bankruptcy Code, 2016

Order

6. MA 695/2020, MA 350/2020, MA 286/2020, 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 C.P.(IB)-292/(MB)/2017

MA 695/2020

Counsel for Applicant is present. The Counsel for the Respondent seeks
time to file reply. Counsel for the Respondent is directed to file the reply before
the next date of hearing and serve the same to the other side. List this matter
on 9.4.2020.

MA 350/2020

This application is filed by the Operational Creditor for a direction against the Liquidator to consider his claim which was filed belatedly, wherein the Liquidator has rejected the claim of the applicant for the reason that it was filed belatedly.

Heard both sides. The Counsel for the applicant submits that the previously they have filed the claim before the RP and after the liquidation order, they could not file the claim in time and they have filed the claim belatedly and the applicant prays that the Tribunal may direct the Liquidator to consider his claim.

In view of the fact that the company is in liquidation, the Liquidator is directed to consider the claim of the applicant and pass appropriate orders.

Application is accordingly disposed of.

MA 286/2020

The applicant is absent. Counsel for the Respondent submits that this MA is not being served on them.

List this matter for disposal on 9.4.2020.

MA 891/2019

It is reported that this MA is already disposed of and is wrongly on Board.

MA 2435/2019

The Counsel for the applicant is present. There is no representation from the side of the Respondent.

Counsel for the applicant is directed to inform the next date of hearing to the Respondent.

List this matter on 9.4.2020.

MA 2165/2019

This is an application filed by the Operational Creditor for a direction against the Liquidator for non consideration of the claim of the applicant.

The Counsel for the applicant submits that the Liquidator has admitted the claim to the extent of the principal amount and only the interest of Rs.89 and odd lakhs was not admitted by the Liquidator, in view of the fact that there is no provision of interest in the agreement.

We feel that the Liquidator has done the right thing and the applicant could not ask for the interest, as there is no provision for charging interest.

In view of the above, this application is dismissed.

MA 1516/2019

The Counsel for the applicant is present. There is no representation from the side of the Respondent.

Counsel for the applicant is directed to inform the next date of hearing to the Respondent. It is made clear that if the Respondent is not present on the next date of hearing, the matter will be decided in their absence. The Counsel for the applicant is directed to take a copy of this order and serve it on the Respondent.

List this matter on 9.4.2020.

MA 1267/2019

Wrongly on Board.

MA 1268/2019

This is an application filed by the Liquidator wherein the Liquidator has filed the progress report, which is taken on record. In view of the same, this application is closed.

MA 1940/2019

The Counsel for the applicant submits that this application was allowed on 21.1.2020. In view of the same, this application is closed.

MA 1081/2018

The applicant is absent. Counsel for the Liquidator is directed to find out whether the fees sought for in the application is paid to the applicant or not.

Liquidator is at liberty to inspect this application as per his convenience.

List this matter on 9.4.2020.

MA 2584/2019

Both sides present. At request of the applicant side, list this matter on 9.4.2020.

MA 2884/2019

Counsel for the Applicant seeks withdrawal of this petition. This MA is dismissed as not pressed.

MA 3185/2019

This is an application filed by SBI Capital Markets Ltd for the following reliefs:

1. Delay of 65 days in filing the present appeal challenging the decision of the liquidator rejecting the claim of the Appellant vide its Email dated 3.7.2019 be condoned.
2. To call for the records and proceedings in respect of the claim of the Appellant lodged with the Liquidator
3. The decision of the Liquidator rejecting the claim of the Appellant vide its email dated 3.7.2019 be quashed and set aside and the claim of appellant may be allowed.

The Counsel for the Respondent submits that the applicant has filed the claim but the claim was filed belatedly, and hence the claim was not considered by the Respondent. In view of the fact that the Company is in liquidation, the Respondent is directed to consider the claim of the applicant and pass appropriate orders on merits without taking into consideration the delay in filing the claim.

Accordingly, this application is disposed of.

MA 3165/2019

This is an application filed by the Operational Creditor seeking following reliefs:

1. To declare the payment of lease rent to claimant as a part of CIRP cost/liquidation cost, to be paid in priority to the Claimant;
2. The Liquidator be directed to pay lease rent of a sum of Rs.9,63,000/- per month from 6.6.2017, i.e. date of admission till the date of handing over of possession as CIRP/Liquidation cost in priority to pay lease rent with effect from April, 2016;
3. The Liquidator be directed to pay outstanding rent of Rs.9,63,000/- per month from April 2016 to 6.6.2017.

Heard both sides. The Counsel for the applicant submits that the Liquidator has admitted his claim and he does not have any grievance in the claim admitted by the Liquidator.

In view of the same, nothing survives in this application and accordingly, this application is dismissed as not pressed.

MA 3897/2019

The Counsel for the applicant is present and submits that he requires some more time to deposit the EMD of Rs.25 crores.

The applicant is directed to deposit a sum of Rs.5 crore on or before 20.3.2020 to the Liquidator to show his bonafide and the remaining amount of Rs.20 crore on or before 30.3.2020.

It is made clear that if the applicant is not making the deposit as directed above, he may have to loose the first deposit of Rs.5 crore

List this matter on 23.3.2020.

MA 3702/2019

In view of the orders passed in MA 3897/2019, list this application on 23.3.2020.

MA 3733/2019

The applicant is absent. Counsel for the Respondent is present. Counsel for the Respondent is directed to inform the next date of hearing to the applicant. It is made clear that if the applicant fails to appear on the next date of hearing, then this application will be dismissed for non prosecution.

List this matter on 23.3.2020.

MA 3300/2019

The Counsel for the applicant is present and submits that they are withdrawing the Vakalatnama in this case.

In view this, for making necessary arrangement by the applicant, list this matter on 9.4.2020.

Sd/-
V. NALLASENAPATHY
Member (Technical)

Sd/-
SUCHITRA KANUPARTHI
Member (Judicial)