

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II

19. IA 1521/2022 In C.P. (IB)/1738(MB)2017

CORAM:

SHRI SHYAM BABU GAUTAM
HON'BLE MEMBER (T)

JUSTICE P. N. DESHMUKH (Retd.)
HON'BLE MEMBER (J)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 05.12.2022

NAME OF THE PARTIES:

M/S. Ela Enterprise
Vs.
Omkar Speciality Chemical Limited

APPEARANCE :

FOR FINANCIAL CREDITOR/ : Counsel, Mr. Viraj Parikh i/b M/s. Apex
APPLICANT Law Partners
FOR CORPORATE DEBTOR : Adv. Anup Khaitan i/b Anup Khaitan &
Co.

Section: Rule 11 of NCLT Rules, 2016

ORDER

The matter is taken up through Virtual Hearing (VC).

1. Counsel, Mr. Viraj Parikh i/b M/s. Apex Law Partners appeared for the Operational Creditor/Applicant. Counsel, Mr. Anup Khaitan appeared for the Corporate Debtor. The present application is filed by **M/s. Ela Enterprise** under Rule 11 of NCLT Rules, 2016 seeking revival of the Company Petition (IB)/1738(MB)2017. The Applicant had filed the present Company Petition for initiation of Corporate Insolvency and Bankruptcy Code for Rs. 1,61,81,246/- (Rupees One Crore Sixty-One Lakh Eighty-One Thousand Two Hundred and Forty-Six Only). Thereafter, Corporate Debtor and Operational Creditor had entered into the settlement agreement wherein liberty vide Order dated 13.03.2020 was granted to the Operational Creditor



to approach the Tribunal in case of breach of the settlement terms on part of the Corporate Debtor.

2. Counsel appearing for the Operational Creditor states that the Corporate Debtor failed to pay the first instalment and hence the Operational Creditor was left with no option to file an application bearing No. 1521 of 2022 for revival of the Company Petition (IB)/1738(MB)2017. Counsel for the Corporate Debtor at the time of hearing submitted that the Corporate Debtor Company is not in a position to pay the outstanding amount and admitted the liability of the debt amount. Accordingly, Company Petition (IB)/1738(MB)2017 is revived and same is admitted by passing the following:

ORDER

- a. The above Company Petition No. (IB) -1738 (MB)/2017 is hereby revived and admitted. Initiation of Corporate Insolvency Resolution Process (CIRP) for Rs. 1,61,81,246/- (Rupees One Crore Sixty One Lakh Eighty One Thousand Two Hundred and Forty Six Only) is ordered against Omkar Speciality Chemicals Limited.
- b. This Bench hereby appoints **Mr. Arun Ramchandra Gaikwad**, Insolvency Professional, Registration No: **IBBI/IPA-002/IP-N01065/2020-2021/13426**, having email as: - **arungaikwad.ip2020@gmail.com**



the Interim Resolution Professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

c. The Operational Creditor shall deposit an amount of Rs. Three Lakhs towards the initial CIRP cost by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.

d. That this Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.



- e. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- f. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- g. That the order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.
- h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- i. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.



- j. Registry shall send a copy of this order to the concerned Registrar of Companies for updating the Master Data of the Corporate Debtor.

The Registry is hereby directed to communicate this order to both the parties and to IRP immediately..

3. With the aforesaid observation IA No. 1521/2022 is allowed and disposed of. List this C.P.(IB)/1738(MB)2017 on 03.01.2023.

Sd/-

SHYAM BABU GAUTAM
(MEMBER TECHNICAL)

Sd/-

JUSTICE P. N DESHMUKH
(MEMBER JUDICIAL)

05.12.2022
Sapna

Certified True Copy
Copy Issued "free of cost"
On 20/12/2022

Sachinkumar
Deputy Registrar *20/12/2022*
National Company Law Tribunal Mumbai Bench





Arun Gaikwad <arungaikwad.ip2020@gmail.com>

Fwd: IA 1521/2022 In CP(IB)/1738(MB)2017 M/S. Ela Enterprise Vs. Omkar Speciality Chemical Limited

1 message

Sachin Kumar <registrar-mum@nclt.gov.in>

Tue, Dec 20, 2022 at 3:57 PM

Reply-To: Sachin Kumar <registrar-mum.nclt@nic.in>

To: jsoman@gmail.com, cs@omkarchemicals.com, arungaikwad.ip2020@gmail.com, Roc.mumbai@mca.gov.in

Dear Sir,

I am directed to forward NCLT order dated 5.12.2022 in IA No. 1521/2022 in CP (IB) 1738 of 2017

Yours faithfully,

Sachin kumar
Dy. Registrar
NCLT, Mumbai**19-Omkar Speciality Chemical Limited IA 1521-2022 In C.P. (IB) 1738(MB)2017 NCLT ON 05.12.2022****INTERIM.pdf**

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