



NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

2. IA/627/2025 C.P. (IB)/2946(MB)2019

IN THE MATTER OF

Bank of India
VS
Wadhwa Buildcon LLP

U/s 7 of the Insolvency and Bankruptcy Code, 2016

Order Delivered on 04.09.2025

CORAM: SH. MOHAN PRASAD TIWARI MEMBER (J)	SH. CHARANJEET SINGH GULATI MEMBER (T)
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Appearance through VC/Physical/Hybrid Mode:

For the Petitioner:

For the Respondent:

ORDER

IA/627/2025: The above IA is listed for pronouncement of the order. The same is pronounced in open court, vide a separate order.

Sd/-
CHARANJEET SINGH GULATI
Member (Technical)
//Rahul//

Sd/-
MOHAN PRASAD TIWARI
Member (Judicial)



**NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT – V**

**IA 627 (MB)2025
IN
C.P.(IB)2946(MB)2019**

[Under Section 14 of the Insolvency and
Bankruptcy Code, 2016]

IN THE MATTER OF:

Manish Lalji Dawda,
205-A, 2nd Floor, Plot No 408,
Hiren Light Industrial Estate,
Bhagoji Keer Marg, Near Paradise Cinema,
Mahim, Mumbai 400 016.
Email: ip.dawdamanish@gmail.com

...Applicant

Vs.

1. Ankit Wadhwa
Wadhwa Buildcon LLP,
104, First Floor, A-Wing
Opposite B-Ward, Wadhwa Meadows,
Kalyan- 421301,
Email: ankitwadhwa@live.in

..... Respondent no. 1

2. Ashish Wadhwa
Wadhwa Buildcon LLP,
104, First Floor, A-Wing
Opposite B-ward, Wadhwa Meadows,
Kalyan -421301
Email: Wadhwagroup_Kalyan@yahoo.in

..... Respondent no. 2

IN THE MATTER OF: -

Bank of India
Vadana House, Near Vadana Cinema
L.B.S. Marg, Thane-400 602



panchpakhadi.navimumbai@bankofindia.co.in)

...Petitioner

Vs.

Wadhwa Buildcon LLP,
104 First Floor, A-Wing
Opposite B-Ward, Wadhwa Meadows,
Kalyan- 421301,
Email:-Wadhwagroup_Kalyan@yahoo.in

... Corporate Debtor

Order Dated: 04.09.2025

Coram:

Sh. Mohan Prasad Tiwari, Hon'ble Member (Judicial)

Sh. Charanjeet Singh Gulati, Hon'ble Member (Technical)

Appearances:

For the Applicant: Adv. Maulik Chokshi (VC)

For the Respondent: Adv. Malhar Zatakia (PH) (R1 & R2)

ORDER

1. This Application has been filed under Section 14 of the Insolvency and Bankruptcy Code, 2016 by Mr. Manish Lalji Dawda, the Interim Resolution Professional of Wadhwa Buildcon LLP, the corporate debtor with the following prayers: -

a. "Declare that the payments made by Respondent No.1 and Respondent No. 2 from the bank account of the Corporate Debtor on 28th July 2020 to M/s. Jupiter Enterprises, M/s. Winsome Traders and Mr. Shankar P. Malani are illegal and non-est for being in contravention of Section 14 of the Code.

b. Direct Respondent No. 1, and Respondent No. 2 jointly and severally pay a sum of Rs. 60,78,200/- (Rupees Sixty Lakhs Seventy-Eight Thousand Two Hundred



Only) in the CIRP Bank Account, together with interest thereon calculated at 12% p.a. from 28th July 2020 on words till payment and/or realisation.;

c. Pass such other and further orders, as this Hon'ble Court may deem fit and proper, in the facts and circumstances of the present case;

d. Pass an order as to costs."

Averments/Brief facts of the case: -

2. CIRP against the Corporate Debtor was initiated vide order dated 28.07.2020, and Mr. Rakesh Kumar Tulsyan was appointed as the Interim Resolution Professional of the Corporate Debtor. Further, the public announcement was made on 30.07.2020, to invite claims from the creditors of the corporate debtor.
3. It is further submitted that an IA bearing no. 2265 of 2024 was filed by the Bank of India (BoI) for replacement of the erstwhile RP with the new RP. This Tribunal vide order dated 02.07.2024 appointed Mr. Manish Lalji Dawda (Applicant) as a new Resolution Professional of the corporate debtor.
4. Subsequently, possession and custody of assets and books of Accounts of the Corporate Debtor were taken from the erstwhile RP, including the process email address etc. The applicant submitted that on verification of the documents, it has come to the notice that certain payments were made from the HDFC bank account of the corporate debtor bearing no. 50200015614218 which is as follows: -

Date of payment	Party to whom payment was made	Amount (In Rs.)
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28.07.2020	M/s. Jupiter Enterprises	31,11,500/-
	M/s. Winsome Traders	27,00,000/-
30.07.2020	Mr. Shankar P. Malani	2,66,700/-

5. It is further submitted that, the said payments were made on 28.07.2020 and 30.07.2020 to the above-stated parties by Respondent No. 1 and Respondent No. 2 jointly and severally totalling to a sum of Rs. 60,78,200/- (Rupees Sixty Lakhs Seventy-Eight Thousand and Two Hundred Only) from the bank account of the Corporate Debtor, which is in clear violation of Section 14 of the Code.
6. The applicant further submitted that the assets of the Corporate Debtor i.e., the monetary reserves, have been transferred by the Respondent no. 1 and 2 in violation of the prohibition contained under Section 14 of the Code, and therefore, the applicant seeks directions against the Respondents to pay an aggregate sum of Rs. 60,78,200/- with interest @ 12 % p.a. from 28.07.2020 till actual realization of the amount.

Submission of the Respondents; In brief: -

7. The Respondent no. 1 and 2 have filed a common Affidavit in reply dated 16.06.2025 wherein they have *inter-alia* denied all the averments in the application except those admitted in the reply.
8. The respondents submitted that payments made on 28.07.2020 and 30.07.2020, were operational transactions, which are made in the ordinary course of business. The Payments was done prior to the communication of CIRP commencement order to the Respondents. The CIRP admission order dated 28.07.2020 was



not intimated or served until 02.08.2020, and the payments were made during the COVID 19 Lockdown, when routine court functions, including publication and delivery of orders were materially disrupted.

9. The respondents submit that on 28.07.2020 the payment of Rs. 31,11,500/- and Rs. 27,00,000/- were made to M/s. Jupiter Enterprise and M/s. Winson Traders towards the operational payment for material purchased was substantiated by various invoices and the payment of Rs. 2,66,700/- to Mr. Shankar P. Malani was a pass-through transaction for stamp duty registration of the home buyers.
10. The Respondents further submit that transactions were disclosed, reviewed and ratified by the CoC in its 10th CoC meeting held on 25.03.2022 and were recognized as part of the CoC costs with a voting majority of 82.60% votes.
11. It is further submitted that the CIRP was initiated on 28.07.2020, and CoC meeting was conducted on 27.08.2020, furthermore the erstwhile RP has conducted the CIRP process till the year 2024, and the present RP was appointed vide order dated 02.07.2024. However, the applicant has filed the present application on 28.11.2024 i.e., after 4 years of the admission order dated 28.07.2020.
12. Regarding violation of Section 14 of the IBC, it is submitted that, coincidentally, the transaction referred about M/s. Jupiter Enterprise to the tune of Rs. 31,11,500/- dated 28.07.2020 and the CIRP order were of the same date, the Respondent was intimated about the said order via e-mail on 02.08.2020. Hence,



in view of the unawareness of the Respondent about the CIRP order, the above transaction cannot be termed as violation of Moratorium under Section 14 of IBC. It is further submitted that the transactions during the period from 28.07.2020 to 31.01.2022 were certified as CIRP cost and were duly certified by Chartered Accountant (CA) vide CA certificate dated 07.03.2022. Further, all the transactions were recorded, presented and ratified as CIRP cost by the CoC members in its 10th CoC meeting held on 25.03.2022 as per Regulation 31(b) of the CIRP Regulations.

13. The respondents have placed reliance on the judgment of the Hon'ble NCLAT in the matter of "**State Bank of India vs. Metenere Ltd**" where the Hon'ble NCLAT has held that, the payments made during the CIRP for operational purposes and later ratified by CoC cannot be re-challenged under Section 14 once approved as CIRP cost.
14. Respondents also submit that no asset is alienated or siphoned nor any assets were disposed of. The payments made by the Respondents for ongoing construction activity and were done in good faith in due course of business. The said payments were pre-communication, operational in nature and not with mala-fide intent for ongoing construction activity. The respondent has placed reliance on the judgment of the Hon'ble Supreme Court in the matter of "**Swiss Ribbons Pvt. Ltd. V. Union of India (2019) 4 SCC 17**" where the Hon'ble Supreme Court has underscored the importance of "**continuation of the corporate debtor as a going concern**" as the core purpose of CIRP. It is contended that payments necessary for business continuity cannot be viewed in isolation or termed as illegal.



Analysis and Findings: -

15. Heard, learned counsel for the parties and perused the records. We have given our thoughtful consideration to the facts of the case and submission of the parties.
16. The core issue in the case is in respect of the payments made by the Corporate Debtor on 28.07.2020 and 30.07.2020. In this case the CIRP was initiated on 28.07.2022, and the impugned payments as follows were made subsequently: -

Date of payment	Party to whom payment was made	Amount (In Rs.)
28.07.2020	M/s. Jupiter Enterprises	31,11,500/-
	M/s. Winsome Traders	27,00,000/-
30.07.2020	Mr. Shankar P. Malani	2,66,700/-

17. It is the case of the Applicant herein that the aforesaid payments are in violation of Moratorium under Section 14 of the IBC as the said payments have been made by the suspended directors of the Corporate Debtor after the initiation of CIRP on 28.07.2020 and thereby, have violated the provisions of Section 14 of the Code.
18. Per contra, the respondent nos. 1 and 2 have submitted that such payments are made in the ordinary course of business and have been made towards the purchase of material for the Corporate Debtor. Further, they have submitted that the said payments were made as the order dated 28.07.2020 was only got communicated to them on 02.08.2020. It is contended that the payments made by the Respondents were for ongoing construction activities and were done in good faith in due course



of business. It is also submitted that the said payments were pre-communication and operational in nature and not with mala-fide intent.

19. It is also contended that the said payments were duly ratified by the CoC in their 10th CoC meeting held on 25.03.2022 with a voting majority of 82.60% voting and to this effect the CA certificate dated 07.03.2022 and the minutes of the meeting wherein at Item No. 7 the CIRP cost incurred from 28.07.2020 to 31.01.2022 has been duly ratified by the CoC, have been placed on record.
20. It is noted that the Applicant herein has not made any submission or rebutted such facts that the expenses incurred for the period 28.07.2020 to 31.01.2022 were considered by the CoC in their 10th CoC meeting held on 25.03.2022, and have been duly ratified by the voting majority of 82.60%. It is further not rebutted that expenses for the period 28.07.2020 to 31.01.2022 have been duly certified by the Chartered Accountant.
21. It is further noted that the Respondents have placed reliance on the judgement of the Hon'ble NCLAT in the matter of "**State Bank of India Vs. Metenere Ltd**" stating that in this case Hon'ble NCLAT have held that once the payments made during the CIRP for operational purposes are ratified by CoC, the same cannot be re-challenged under Section 14 once approved as CIRP cost. However, we note that while placing reliance on the judgment of the Hon'ble NCLAT in the matter of "**State Bank of India Vs. Metenere Ltd**" no citation has been given by the Respondent. However, when, decision in **State Bank of India**



Vs. M/s. Metenere Ltd in Company Appeal (AT) (Insolvency) No. 76 of 2020 was looked into, no such issue was seen to be decided by the Hon'ble NCLAT in the said case.

22. However, in the matter of "***Bharat Hotels Limited vs. Tapan Chakraborty (2022) ibclaw.in 650 NCLAT, in Company Appeal (AT) (Insolvency) No. 1074/2022 dated 05.09.2022***" Hon'ble NCLAT have *inter-alia* observed as under: -

"5..... Question of cost and its approval lays in the domain of the CoC. The CoC may ratify, modify or set aside the cost claimed. These issues may be decided in the meeting of the CoC and are not to be examined by the Adjudicating authority even before the CoC takes a decision....."

23. Accordingly, it is seen that the question of cost and its approval lays in the domain of the CoC and these issues once decided by the CoC are not to be examined by the Adjudicating authority. In the case in hand there is no dispute to the fact that the expenses for the period 28.07.2020 to 31.01.2022 were ratified as CIRP cost and were duly certified by the CA vide certificate dated 07.03.2022. The minutes of the CoC meeting and the certificate of the Chartered Accountant has been placed on record and there is no rebuttal given by the Applicant herein that the transactions which are the subject matter of this IA are not included in such CA certificate and have not been ratified by the CoC. Once it is arrived at that the subject transactions have been ratified as CIRP cost by the CoC, it is not considered necessary to go into the examination of the facts regarding the violation of Moratorium under Section 14 made payments.



24. In view of the facts and circumstances of the case, it is held that the issue in hand is clearly covered by the Judgment of the Hon'ble NCLAT in the matter of "***Bharat Hotels Limited vs. Tapan Chakraborty (Supra)***" and therefore, the reliefs as sought for in the IA by the Applicant cannot be granted and are rejected. Accordingly, **IA 627 (MB)2025 is dismissed.**

Sd/-
CHARANJEET SINGH GULATI
Member (Technical)
/Anmol/

Sd/-
MOHAN PRASAD TIWARI
Member (Judicial)