



IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT-IV

I.A. NO. 2903 OF 2022
IN
COMPANY PETITION (IB) NO. 946/ND/2019

IN THE MATTER OF:
MR. SAHIL GARG & ORS.

...OPERATIONAL CREDITOR

VERSUS

WAVE GLOBAL EDUCATIONAL SERVICES PRIVATE LIMITED
...CORPORATE DEBTOR

IN THE MATTER OF:
RADHEY SHYAM YADAV

...APPLICANT/LIQUIDATOR

VERSUS

1. AXIS TUTORIALS PRIVATE LIMITED
1-B, PUSA ROAD, OLD RAJINDER NAGAR,
NEW DELHI-110060

...RESPONDENT NO. 1

2. MR. VIKASH KUMAR SHRIVASTAV
DIRECTOR AND CEO OF AXIS TUTORIALS PVT LTD

Address 1:
61, FOURTH FLOOR, OLD RAJINDER NAGAR,
NEW DELHI-110060

Address 2:
C-610, SHIPRA KRISHNA VISTA APARTMENTS,
INDIRAPURAM, GHAZIABAD-201014 (UP)

...RESPONDENT NO. 2

3. MS. KUMARI SUCHI
DIRECTOR OF AXIS TUTORIALS PRIVATE LIMITED
HAROLA, SECTOR-05, NOIDA-210301, UTTAR PRADESH

....RESPONDENT NO. 3

ORDER DELIVERED ON: 02.09.2025

CORAM:

SHRI MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)



**SHRI ATUL CHATURVEDI,
HON'BLE MEMBER (TECHNICAL)**

PRESENT:

For the Liquidator : Adv. Varun Goel, Adv. Anuj Pandey

ORDER

PER: MANNI SANKARIAH SHANMUGA SUNDARAM, MEMBER (JUDICIAL)

1. The present I.A. No. 2903 of 2022 has been filed by Mr. Radhey Shyam Yadav, Liquidator of M/s Wave Global Educational Services Private Limited (hereinafter referred to as Applicant/Liquidator) against M/s Axis Tutorials Private Limited (Respondent) under section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules, 2016 seeking relief as stated below:-
 - a. To direct the Respondent and its Directors to pay the amount of Rs. 1,08,31,300/- (One Crore Eight Lakhs Thirty-One Thousand and Three Hundred only) and interest @ 18% per annum from 18.05.2018 till the actual date of full payment to the CD.
 - b. Pass such other order/directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case.
2. Based stated facts of the present case as averred by the Applicant are that:-
 - i. The Corporate Insolvency Resolution Process (CIRP) was initiated against M/s. Wave Global Educational Services Private Limited (Corporate Debtor) vide this Tribunal's order dated 18.11.2019 in C.P. IB-946/ND/2019 and subsequently, liquidation order was passed on 11.08.2021 in IA No. 1313/ND/2021. The Applicant was appointed as the Liquidator vide order dated 11.08.2021.
 - ii. It is submitted by the Liquidator that the last audited Balance Sheet of the Corporate Debtor for 2017-18 shows an amount of Rs.1,08,31,300/- (Rupees One Crore Eight Lacs Thirty One Thousand Three Hundred Only) as unsecured loan given to Axis Tutorials Pvt Ltd.



- iii. On 29.12.2017, a Share Purchase Agreement was signed between CD and the Debtor, for transfer of 7000 shares in the name of Mr. Vikash Kumar Shrivastav, Director & CEO of the Debtor to CD and thereby acquiring the control and management of Axis Tutorials Pvt. Ltd.
- iv. On 28.02.2018, an Addendum Agreement was signed between CD and the Debtor with further action plan with revised terms of payment to implement the above mentioned Share Purchase Agreement.
- v. The two parties later signed a cancellation agreement titled as 'Demerger Agreement' dated 02.05.2018 revoking the Share Purchase Agreement dated 29.12.2017 and Addendum agreement dated 28.02.2018. The clause No. 3 of the Demerger Agreement dated 02.05.2018 states as below:

"The revoking of the original agreement will imply that the first party will be bound to return the above-mentioned amount i.e., Rs.1,08,00,000/- (Rupees One Crore Eight Lakhs) to the second party within 15 days after signing of this agreement, the Directors/representatives of the second party offer their resignation and shares transferred to the second party will be reverted back to the first party. In case there is any delay in payment of the aforesaid amount by the first party to the second party then after a lapse of 15 days as stipulated above, the outstanding amount shall entail interest @ 18% p.m."
- vi. Mr Vikash Kumar Shrivastav, Director & CEO of Axis Tutorials Pvt Ltd issued a cheque of HDFC Bank bearing no. 000347 dated 25.06.2018 for an amount of Rs.50,00,000/- (Rupees Fifty Lakhs only) towards refund of first instalment of total amount of Rs.1,08,00,000/- but the said cheque got bounced. Later, Mr. Vikas issued another HDFC Bank cheque bearing no. 000378 dated 15.07.2018 for an amount of Rs.50,00,000/- (Rupees Fifty Lakhs only) with an 'Undertaking' dated 03.07.2018 on stamp paper assuring that the cheque will be honoured on due date i.e., 15th



July 2018 failing which he would be liable for legal action, but the said cheque also got rejected due to overwriting and the same was returned to the Debtor who again issued a fresh cheque no. 000279 with fresh 'Undertaking' dated 14.09.2018 that the fresh cheque is good for honour as the Axis Tutorials Pvt Ltd is maintaining sufficient bank balance and also with a commitment that – “In the event of failure on my part as well as on the part of my company to honor the cheque we shall indemnify the wave Global of any or all the losses/damages incurred by Wave Global”.

- vii. That email communications dated 06.03.2020 and 29.09.2020 on the email addresses as mentioned MCA web portal were sent to the Axis Tutorials Pvt Ltd, Director & CEO, Mr. Vikash Kumar Shrivastav and Director, Ms. Kumari Suchi but no response was received from any one.
- viii. Since no response was received on communication including reminder through email, a Legal Notice dated 14.09.2021 was sent to Axis Tutorials Pvt. Ltd., Director & CEO, Mr. Vikash Kumar Shrivastav and Director, Ms. Kumari Suchi through speed post which were returned undelivered.
- ix. On availability of mobile number of the Director & CEO of Debtor, Mr. Vikash Kumar Srivastava, contact has been established since 20.09.2021. He has been requested for meeting(s) and to participate in the discussions for recovery of CD's assets. Mr. Vikash Kumar Shrivastav, Director & CEO of Debtor has also been requested repeatedly through whatsapp intimations since 29.01.2022. Mr. Vikash Kumar Shrivastav promised over phone to put up his reply but has not submitted anything in writing till date.
- x. Hence, the present application has been filed.

ANALYSIS AND FINDINGS

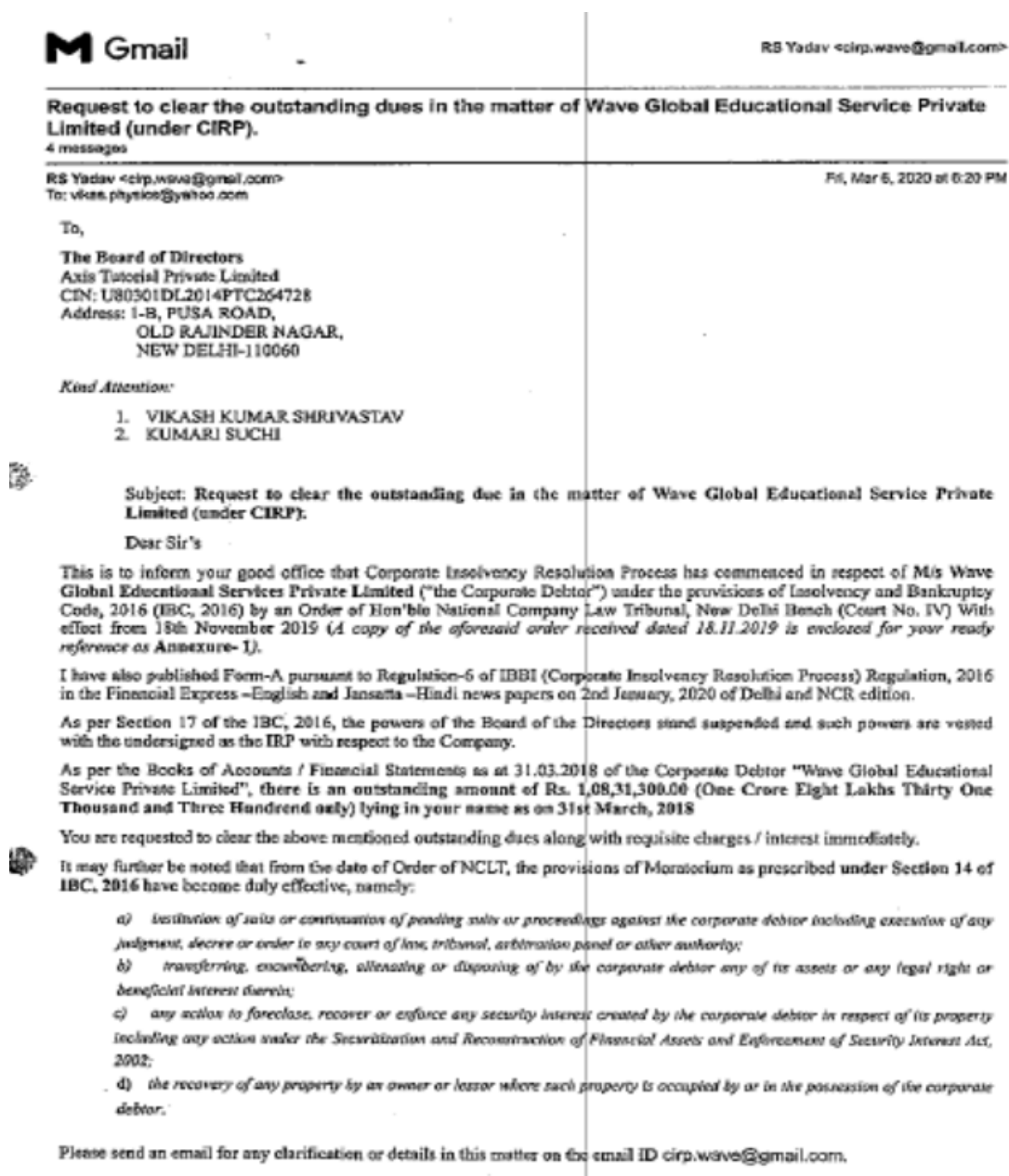
3. We have heard the Ld. Counsel for the Applicant and perused the averments made in the instant application and written submissions along with the documents enclosed with the application.



4. Notice was issued by this Adjudicating Authority to the Respondent on 15.09.2022. However, despite service of notices, none appeared on behalf of the Respondent therefore, the Respondent was proceeded ex-parte vide order dated 13.03.2023.
5. Before we go into the facts of the case, it is important to refer to certain provisions of the Code, Section 35(d) of the Code authorises the Liquidator to take such measures and to protect and preserve the assets and properties of the Corporate Debtor as he considers necessary. Furthermore, under Regulation 39 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016 (Liquidation Regulations), the Liquidator shall endeavour to recover and realize all assets of and dues to the Corporate Debtor in a time-bound manner for maximization of value for the stakeholder.” Thus, the Liquidator is empowered under this Code to initiate proceedings on behalf of the Corporate Debtor for recovering monies due to the Corporate Debtor, and does not necessarily need prior approval under Section 33(5) of the Code for this purpose, which in any case is procedural in nature, as also in the facts of the instant case, such prior approval, if was sought, could not have been denied.
6. It is not in dispute that the Corporate Insolvency Resolution Process (CIRP) was initiated against M/s. Wave Global Educational Services Private Limited (Corporate Debtor) vide this Tribunal’s order dated 18.11.2019 in C.P. IB-946/ND/2019 and subsequently, liquidation order was passed on 11.08.2021 in I.A. No. 1313/ND/2021. The Applicant was appointed as the Liquidator vide order dated 11.08.2021.
7. In the present case, the Liquidator is seeking recovery of Rs. 1,08,31,300/- along with interest 18% per annum from 18.05.2018 till the actual date of full payment to the CD.
8. The Corporate Debtor and Axis Tutorials Private Limited entered into a share purchase agreement dated 29.12.2017, which was subsequently revoked by a Demerger Agreement dated 02.05.2028. The Demerger agreement mandated Axis Tutorials Pvt Ltd to refund of Rs. 1,08,00,000/- to the Corporate Debtor within 15 days of the agreement.



9. On perusal of the documents, it is observed that the audited balance sheet shows an amount of Rs. 1,08,31,300/- as unsecured loan given to the Respondent i.e., Axis Tutorials Private Limited. We further note that the series of emails dated 06.03.2020 and 29.09.2020 sent to the Respondent and pressed for the payment of the outstanding amount, however, the Respondent gave no prompt reply to the same. Further, the outstanding amount payable by the Respondent to the Corporate Debtor was not disputed. The email dated 06.03.2020 and 29.09.2020 reproduced hereunder: -





RS Yadav <cirp.wave@gmail.com>
To: vikas.physics@yahoo.com

Tue, Sep 29, 2020 at 8:20 PM

Dear Sir,

This is further to my trailing mail requesting you to clear the outstanding dues in the matter of M/s Wave Global Educational Services Private Limited (WGESPL) which is under CIRP. No response has been received from you till date.

As per the Books of Accounts / Financial Statements as at 31.03.2018 of the Corporate Debtor "Wave Global Educational Service Private Limited", there is an outstanding amount of Rs. 1,08,31,300.00 (One Crore Eight Lakhs Thirty One Thousand and Three Hundred only) lying in your name as on 31st March, 2018

You are requested to clear the above mentioned outstanding dues along with requisite charges / interest immediately. In case no response is received from your side within 10 days, legal action may be initiated.

Please treat the matter as urgent.

Thanks & Regards,

Radhey Shyam Yadav
Resolution Professional

10. Moreover, on verification of records, it was found that the Respondents are liable to refund monies advanced by the Corporate Debtor in terms of a Demerger Agreement dated 02.05.2018. Clause 3 of the said agreement which is reproduced hereunder: -

"The revoking of the original agreement will imply that the first party will be bound to return the above-mentioned amount i.e., Rs. 1,08,00,000/- (Rupees One Crore Eight Lakhs) to the second party within 15 days after signing of this agreement, the Directors/representatives of the second party offer their resignation and shares transferred to the second party will be reverted back to the first party. In case there is any delay in payment of the aforesaid amount by the first party to the second party then after a lapse of 15 days as stipulated above, the outstanding amount shall entail interest @ 18% p.m."

11. Further, the agreements, undertakings, dishonoured cheques, and subsequent correspondence, establish beyond doubt that the Respondents are indebted to the Corporate Debtor for Rs. 1,08,31,300/- . The contractual liability is clear and unequivocal.
12. Considering the facts and circumstances, this Tribunal finds that the Respondents are liable to repay the sum Rs. 1,08,31,300/- with contractual interest at 18% per annum. The amount shall be paid by the Respondents to the Liquidator within a period of 30 days from the date of this order. Any amount so received by the Liquidator shall be deposited



in the Liquidation Account of the Corporate Debtor and form a part of the Liquidation Estate of the Corporate Debtor.

13. In the result, the present **I.A. No. 2903/ND/2022 is disposed of in above terms.**

Sd/-

**(ATUL CHATURVEDI)
MEMBER (TECHNICAL)**

Sd/-

**(MANNI SANKARIAH SHANMUGA SUNDARAM)
MEMBER (JUDICIAL)**