

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

37.M.A. 1023/2018

M.A. 1564/2018

M.A. 1565/2018

IN

C.P. (IB)382(MB)/2018

CORAM : SHRI BHASKARA PANTULA MOHAN, MEMBER (J)

SHRI V. NALLASENAPATHY, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **20.12.2018**

NAME OF THE PARTIES: Edelweiss Asset Reconstruction Company Limited

v/s.

Reid Taylor (India) Ltd.

SECTION 7 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

MA 1023/2018

Heard the Counsel representing the Resolution Professional and the counsel representing the Income Tax Department. The application has been filed by the Resolution Professional with a prayer to direct the respondent i.e. Income Tax Department to lift the attachment of Bank accounts which were attached prior to the Insolvency and Bankruptcy Code commencement date in view of the fact that the respondents have filed formal claim for their dues with the applicant.

It is submitted by the Counsel appearing for the Resolution Professional that to their knowledge about Rs.70.00 lac to Rs.1.00 Crore is lying in various accounts in various Banks belonging to the Company and the funds are under

attachment of Income Tax Department. It is also been reported that the power supply of the factory has been cut off as the company could not make the payment towards the electricity bills.

It is also appears that no salaries for the labour were paid till date for the past one month. Apart from that there is an immediate requirement of Rs.3.00 Crore to the Company to keep as a going concern.

After hearing the Counsel representing the Income Tax Department and taking into consideration the priority of the Income Tax Department for claiming their dues in the event the company is liquidated, this bench takes a conscious decision under the powers granted to this Tribunal u/s 238 of the code that the Orders passed under Section 226 (3) of the Income Tax Act dated 16.11.2017 and 17.11.2017 by Income Tax Recovery Officer-4, Mumbai, Room No.210, Ayakar Bhawan, MK Road, Mumbai are hereby suspended forthwith and we further hereby direct the authorities concerned not to proceed further for the recovery of dues.

We hereby direct the Resolution Professional to approach the Banks with the copy of this order for the withdrawal of funds available in their respective accounts to keep the company as going concern.

Accordingly, the Misc. Application is disposed of.

MA 1565/2018 & MA 1564/2018

This is an application filed by the unregistered Employees Association of Reid & Tailor (India) Ltd.(Corporate Debtor) saying that they have an investor who can give a resolution plan for the Corporate Debtor. The Applicant submit that even though expression of interest was given by 8 parties that had not fructified into a resolution plan due to so many reasons. However, this employees association submits that their investor is interested in submitting a resolution plan and the Resolution Professional may be directed to give

financial details and other data of the Company then they will be in a position to proceed further for submitting a resolution plan. However, this bench noticed that this association is unregistered and it seems it was formed recently.

Even though the applicant has given the name of the investor in the sealed cover which this bench seen and returned to them, it is desirable that if the application is filed along with the investor, it bring some confidence that the investor will come and invest in the Company. The RP is also present and he submits that the COC in the meeting held on 14.12.2018 decided to liquidate the Company with a voting share of 67%. In view of the fact that resolution is the main aim of IBC and when somebody is there to invest in the Company, in the interest of justice, an opportunity be given to them despite the fact that the CIRP period ends on 01.01.2019.

The Counsel for the applicant find out from his client, the investor may be in a position to join as an applicant in this application so that this bench can have some confidence that the said investor/financer will be investing in this Company.

List this matter on 01.01.2019.

Sd/-

V. NALLASENAPATHY
Member (Technical)
/NP/

Sd/-

BHASKARA PANTULA MOHAN
Member (Judicial)