

**NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH – II  
CHENNAI**

**ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL, CHENNAI BENCH, HELD ON 10-11-2022 AT 10.30 A.M. THROUGH VIDEO CONFERENCING:**

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**PRESENT : DR. DEEPTI MUKESH, HON'BLE MEMBER (JUDICIAL)  
SHRI. SAMEER KAKAR, HON'BLE MEMBER (TECHNICAL)**  
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**APPLICATION NUMBER : IA(IBC)/792(CHE)2022**

**PETITION NUMBER : IBA/304/2020**

**NAME OF THE PETITIONER : State Bank of India**

**NAME OF THE RESPONDENT(S) : Harsan Kumar (M/s Umiya Development Centre) & 2 Others**

**UNDER SECTION : Sec 60(5) of IBC, 2016 r/w Rule 11 of NCLT Rules, 2016**

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**ORDER**

Ld. Counsel Mr. M.L. Ganesh is present for the Applicant. Ms. Leela Parthiban who states that she is the sister of one of the suspended director appears on behalf of the Corporate Debtor Suspended Directors.

This Application has been filed by State Bank of India which claims to be a Financial Creditor of the Corporate Debtor seeking the following reliefs:

- a. Direct the second respondent represented by its Resolution Professional to continue the CIRP since the first respondent has failed to file an application (Form FA) under Regulation 30A of IBBI (Insolvency Resolution Process for corporate persons) Regulations, 2016 in terms of order dated 23.02.2022 passed in company appeal (AT) (CH) (Insolvency) No.242 of 2021 by NCLAT, Chennai Bench and thus render justice.*
- b. Direct the first respondent to pay cost as well as compensation to the applicant for not filing the application as directed by Hon'ble NCLAT, Chennai Bench vide order dated 23.02.2022 in Company Appeal (AT) (CH) (Insolvency) No.242 of 2021*



*thereby causing irreparable loss and hardship to the applicant and thus render justice.*

It is seen that CIRP order was passed in the matter on 09.08.2021. The appeal no.242/2021 was filed before Hon'ble NCLAT and the Hon'ble NCLAT vide order dated 07.10.2021 stayed the implementation of the CIRP order dated 09.08.2021 passed in IBA/304/2020. The matter was finally disposed of by the Hon'ble NCLAT vide order dated 23.02.2022 with the following directions:

**ORDER**

**VIRTUAL MODE**

**23.02.2022:** *The Learned Counsel for the Appellant seeks permission from this Tribunal to withdraw the instant Company Appeal (AT)(CHE)(Ins) No.242/2021. Acceding to the said request, the instant Company Appeal (AT)(CH)(Ins) No.242/2021 is **dismissed as withdrawn**. No costs.*

*It is open to the 1<sup>st</sup> Respondent to file the Form FA (application for withdrawal of CIRP) UNDER Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 before the 'Adjudicating Authority' (through Interim Resolution Professional / RP) mentioning the name of the Corporate Debtor within two weeks from today. In the event of filing of such application, the Adjudicating Authority is to number the same, if otherwise in order, and to dispose off the same within one week thereafter.*

*Till the application of withdrawal is disposed off, the interim order granted by this Tribunal on 07.10.2021 shall continue.*

*IA.No.510/2021 (for stay) is closed.*

RP in the matter Mr. C. Ramasubramaniam appears in person and states that Form FA is not available with him and it was not handed over by the erstwhile IRP Mr. K. Ganesan to him.

We hereby direct Mr. C. Ramasubramaniam, RP to file detailed reply in the matter **within 2 weeks from now**.



**The copy of this order may be served on erstwhile IRP Mr. K. Ganesan by Mr. M.L. Ganesh, Counsel for the Applicant herein.**

**It is seen that there is serious dereliction of duties by both the IRP Mr. K. Ganesan and the RP Mr. C. Ramasubramaniam in the matter.**

**Registry is directed to mark a copy of this order to IBBI for their further actions in the matter.**

Apparently nobody has taken the responsibility of filing Section 12A Application though every interested party was present before the Hon'ble NCLAT. There after everybody disappeared from the scene and the Corporate Debtor and Financial Creditor have been left in the lurch.

The erstwhile IRP Mr. K. Ganesan and RP Mr. C.Ramasubramaniam, one Ms. Leela Parthiban who states that she is the sister of one of the suspended director of the Corporate Debtor appears on behalf of the Corporate Debtor Suspended Directors and Mr. Harsan Kumar, Director of Operational Creditor M/s. Umiya Development Centre **to be present in person during the next date of hearing.**

**Registry is directed to serve a copy of the order to Mr. Harsan Kumar, claiming to be the Director of the Operational Creditor M/s. Umiya Development Centre.**

List this application for further hearing on **24.11.2022.**

S/d

**SAMEER KAKAR**  
**Member (Technical)**

Phk

S/d

**DR. DEEPTI MUKESH**  
**Member (Judicial)**