

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH-II

(IB) 456(ND)/2018

IA/3436/2021 & IA 1539/2021

IN THE MATTER OF:

Pallavi Joshi Bakharu

Financial Creditor

Versus

Universal Buildwell Pvt. Ltd.

Corporate Debtor

AND IN THE MATTER OF:

**Mr. Atul Kumar Kansal, Resolution Professional,
 Universal Buildwell Pvt. Ltd.
 3rd Floor, SCO-61, Above Kotak Mahindra
 Bank, Old Judicial Complex, Civil Lines
 Gurgaon-122001**

Applicant

Versus

**State Bank of India
 Silvertown Tower, Golf Course
 Extension Road, Sec-50,
 Gurgaon, Haryana-122016**

Respondent

AND IN THE MATTER OF:

**State Bank of India
 Silvertown Tower, Golf Course
 Extension Road, Sec-50,
 Gurgaon, Haryana-122016**

Applicant

Versus

**Mr. Atul Kumar Kansal, Resolution Professional,
 Universal Buildwell Pvt. Ltd.
 3rd Floor, SCO-61, Above Kotak Mahindra
 Bank, Old Judicial Complex, Civil Lines
 Gurgaon-122001**

Respondent

Order delivered on: 05/10/2021

CORAM:

MR. ABNI RANJAN KUMAR SINHA, HON'BLE MEMBER (JUDICIAL)

MR. L.N. GUPTA, HON'BLE MEMBER (TECHNICAL)

(IB) 456(ND)/2018
 IA/3436/2021
 & IA 1539/2021

Y

PRESENT: -

Mr. Siddharth Sangal Advocate with Amit Kumar Tirkey, SBI Official, Adv. Ashish Middha & Adv. Purav Middha for suspended Directors, RP in person Atul Kumar Kansal

ORDER**AS PER MR. ABNI RANJAN KUMAR SINHA, MEMBER (JUDICIAL)**

Since, both the applications IA/1539/2021 and IA/3436/2021 are related with each other, we would like to dispose of both these applications by this common order.

IA. 3436/2021

2. The present application is filed by RP u/s 14 read with section 60(5) of the Insolvency & Bankruptcy Code, 2016, (hereinafter referred to as the "Code"), seeking the following main directions:

"a. Take Action against Respondent - State Bank of India for breach of moratorium.

b. Direct the Respondent- State Bank of India to release the FDRs of Rs. 1,00,69,272/- in the name of Corporate Debtor to the bank account of the Corporate Debtor.

c. Maintain status quo in respect of FDR Amount of Rs. 2,24,68,122/- in the name of Mr. Raman Puri and not to release the same without directions this Hon'ble Tribunal."

3. The facts mentioned in the application in brief are as follows:

(IB) 456(ND)/2018
IA/3436/2021
& IA 1539/2021

- i. Corporate Insolvency Resolution Process (CIRP) has been initiated against the Corporate Debtor vide order dated 03.07.2018 passed in IB 456/ND/2018 and Mr. Atul Kumar Kansal was appointed as Interim Resolution Professional of the Corporate Debtor. Subsequently, he was confirmed as Resolution Professional (RP).
- ii. The applicant had filed IA No. 938/2020 seeking direction against the Respondent for release of Rs. 1,00,69,272/- of the Corporate Debtor pledged in the form of FDRs against Bank Guarantees issued by the Respondent Bank in favour of Director Town and Country Planning Haryana, (DTCP), which stood expired on 31.07.2019, without having been invoked and further status quo direction in respect of FDR of Rs. 2,24,68,122/- in the name Mr. Raman Puri, i.e. ex-director of the Corporate Debtor.
- iii. Details of the FDRs are reproduced as follows:

Fixed Deposit Holder's Name	FDR Number	Value (Rs)
Universal Buildwell Pvt Ltd	61219326476	6,48,557/-
Universal Buildwell Pvt Ltd	61224696655	1,27,286/-
Universal Buildwell Pvt Ltd	61243349574	3,66,838/-
Universal Buildwell Pvt Ltd	61340953676	33,60,000/-
Universal Buildwell Pvt Ltd	37521770338	55,66,591
Sub- Total (A)		1,00,69,272/-

(IB) 456(ND)/2018
IA/3436/2021
& IA 1539/2021

Raman Puri	61287168144	11,056,577/-
Raman Puri	61287167774	11,411,545/-
Sub-Total (B)		2,24,68,122/-
Grand Total (A+B) = (C)		3,25,37,394

4. It is submitted that the FDRs were pledged with the Bank against Guarantees issued by the Respondent Bank in favour of DTCP, Haryana on behalf of the Corporate Debtor and the Bank Guarantees expired on 31.07.2019 and pledge as security is still continuing by Respondent.

5. That vide order dt. 22.02.2021, after taking note of the fact that the Bank Guarantees stood expired on 31.07.2019 without being invoked and the Respondent had conveyed their no objection to release the FDRs vide email dated 11.11.2020. And on Consideration of this, in IA 938/2020 this Adjudicating Authority has given a direction to RP to approach the Respondent Bank for release of the FDRs.

6. That the RP wrote emails to the Respondent on 24.02.2021, 09.03.2021, 17.03.2021, 18.03.2021 and 23.03.2021 seeking release of the said FDRs. The respondent then on 19.03.2021 issued letters to DTCP Haryana and Excise and Taxation Department Haryana seeking the original documents of bank guarantees and claims filed with RP.

7. The case of the applicant is that the Respondent has breached the provisions of the Moratorium and defied the order dated 22.02.2021 passed by this Tribunal in I.A. No. 938/2020.

(IB) 456(ND)/2018
IA/3436/2021
& IA 1539/2021

8. The Respondent Bank has filed its reply and written arguments raising objections against the prayers of applicant stating that:

- The order dated 22.02.2021 was not passed in the presence of the Respondent but was passed on the basis of their email dated 11.11.2020 only.
- It is stated that the email dated 11.11.2020 was an inadvertent error by the Respondent in ignorance of fact that the amount of FDRs stood as Margin Money, which was security against the Bank Guarantees in favour of State of Haryana.
- The Respondent issued letter dated 19.03.2021 to State of Haryana for return of original bank guarantees but no response received.
- It is stated that the Bank cannot refund the Margin Money kept as security unless the original Bank Guarantees documents are returned. Reference has been made to Circular dated 09.01.2012, which is in knowledge of RP and has not been challenged in the present I.A.
- Respondent also raised objection regarding non-joinder of State of Haryana as party to the present proceedings. It is submitted that the BGs expired on 31.07.2019, but as per Limitation Act, government can file suit for recovery until 30 years, thus the Bank has to vouchsafe its interests.

(IB) 456(ND)/2018
IA/3436/2021
& IA 1539/2021



IA 1539/2021

9. The IA-1539/2021 is filed by the State Bank of India, seeking following reliefs:

- i. Allow this Application filed under Section 60(5) of the IBC, 2016 r/w Rule 11 of the NCLT Rules, 2016; And*
- ii. Modify/ Clarify the order dated 22.02.2021 passed in I.A. No. 938/2020 & I.A. No. 5136/2020 in CP (IB) No. 456/2018 and/or give appropriate directions in view of the facts as stated and the documents as enclosed; And*
- iii. Direct that the amount lying in the FDs with the applicant-SBI in the name of the ex-director of the Corporate debtor-UBPL i.e. in the name of Raman Puri cannot be released since the CIRP is of the Corporate Debtor; And*
- iv. Direct that the amount lying in the FDs with the applicant-SBI in the name of the Corporate Debtor-UBPL cannot be released unless the original BGs are returned to the applicant-SBI or the beneficiaries of the BGs issue a 'no-claim' letter to the applicant- SBI; And*
- v. Direct the IRP to move necessary application for impleadment of the Excise & Taxation Department and the Director of Town & Country Planning of the Government of Haryana; And or*

(IB) 456(ND)/2018
IA/3436/2021
& IA 1539/2021



vi. Pass such other or further order (s) or directions(s) as this Hon. Tribunal may deem fit to issue/pass in the interest of justice in the facts and circumstances of the present case.

10. It is the case of the applicant that:

- That it is submitted that the Bank has nothing to do with the CIRP or Liquidation of the Corporate Debtor as no claim has been filed by applicant Bank.
- Further, it is stated that earlier State Bank of Bikaner and Jaipur had issued 6 Bank Guarantees on behalf of corporate debtor in favour of Governor of Haryana, Excise & Taxation, Gurugram, Haryana, Director of Town & Country Planning, Chandigarh, Haryana. It is stated that out of 6 BGs, 4 BGs for Rs. 2,58,49,500/- were issued by Bank in favour of Governor of Haryana, Director of Town & Country Planning, Chandigarh, Haryana and other 2 BGs were also issued in favour of Governor of Haryana, Excise & Taxation, Gurugram, Haryana.
- That only two FDs 61243349574 & 61340953676 hold the Margin Money as security for two Bank Guarantees No. 1115814BG0000007 & 1115814BG0000006 and the other FDs are Margin Money against the other BGs.
- Further, it is submitted that FDs in the name of Mr. Raman Puri cannot be released as the CIRP is initiated against the Corporate Debtor only.

(IB) 456(ND)/2018
IA/3436/2021
& IA 1539/2021



- Further, it is submitted no application concerning BGs could have been decided without hearing of the beneficiaries of those BGs, especially when the original BGs are still in the possession of the Beneficiary.
- Further, it is submitted that since the performance bank guarantee are not a part of 'Security interest' even the Margin Money retained by the Bank in lieu of the Performance Bank Guarantees is not 'security interest' in view of Section 3 (31) of the Code. Thus, it cannot be a part of Resolution Plan or Liquidation process automatically.
- Further, it is submitted that the e-mail dated 11.11.2020 was sent inadvertently ignoring the fact that the FDs are Margin Money/security against the BGs issued in the favour of State of Haryana and the original BGs have not been received by the Bank. It is contended that the Bank has first charge over the FDs to the extent of the amount of Bank Guarantees.
- Further, it is argued that the Bank is bound by the Circular dated 09.01.2012, which mandates as follows:
"... if the BG is not returned, and margin/collateral, if any, taken exclusively for relative BG are to be refunded/released only after return of original guarantee document."
Copy of the circular dated 09.01.2012 has been attached with the application.

(IB) 456(ND)/2018
IA/3436/2021
& IA 1539/2021



- Further, it is stated that since the BG were valid upto the years 2017 & 2019, the beneficiary can always raise a claim under the said BG or invoke the BGs within a period of 3 years and in case of Government, within a period of 30 years. For that reason the Bank has to vouchsafe its interests until the limitation period gets expired or the original BGs are returned to it.

11. We have heard the Ld. Counsels for the applicants of both the applications.

12. We observe that the IA/1539/2021 is filed by the State Bank of India (hereinafter referred to as 'SBI') against the Resolution Professional (hereinafter referred to as 'RP') whereas the IA/3436/2021 is filed by the RP against the SBI for the same cause of action.

13. Ld. Counsel for the RP submits that IA/938/2020 and IA/5136/2020 were disposed of by the common order dt. 22.01.2021 and a liberty was given to the petitioner to approach the SBI for release of the said FDs.

14. He further submitted that in the course of hearing of the aforesaid two applications, the SBI sent an email dated 11.11.2020 stating therein that "the SBI has no objection in releasing of the 05 FDs in the name of Universal Buildwell and 02 FD in the name of Raman Puri mentioned in the attachment being kept with the SBI against the bank guarantee as and when we receive the order from NCLT for releasing the same."

(IB) 456(ND)/2018
IA/3436/2021
& IA 1539/2021



15. He further submitted that in pursuance of that order, the RP had approached the SBI but SBI has refused to release the said FDs in favour of the RP.

16. He further submitted that in the IA/938/2020 and IA/5136/2020, despite several adjournments, SBI did not file any reply, rather sent an email to the RP, which was enclosed with the IA/5136/2020 and on the basis of that email, the order dated 22.02.2021 was passed.

17. On the other hand, Ld. Counsel for the SBI submitted that prior to the filing of this application, the SBI had already filed an application for modification/clarification of the order dated 22.02.2021 passed in IA/938/2020 and IA/5136/2020 in CP (IB) No. 456/2018.

18. He further submitted that instead of filing the reply in that application, the RP has filed this application for the release of said FDs.

19. He further submitted that since the then Branch Manager of concerned SBI Bank had no knowledge about the guidelines issued by the SBI vide e-circular dated 09.01.2012 to all the Branches of the SBI in respect of release of the bank guarantee (BG) for which, an email was sent by the then BM, SBI to the RP stating that Bank has no objection.

20. He submitted that as per their e-circular dated 09.01.2012, the FD can be released after the return of the original guarantee document.

21. He further submitted that after receiving the original bank guarantee document, the Bank has no objection to release the FDs in favour of the RP.

(IB) 456(ND)/2018
IA/3436/2021
& IA 1539/2021



22. He submitted that in a similar matter, the Principal Bench of NCLT in the matter of CP(IB) No. 144/PB/2017 directed the liquidator to implead the other members/parties connected to this issue.

23. He further submitted that in that matter vide order dated 13.07.2021, the Principal Bench, NCLT in IA/2929/2020, disposed of the application with a direction to release the amount, when the original bank guarantee paper is submitted. So, the order dated 22.02.2021 may be modified or clarified.

24. He submitted that moreover vide order dated 22.02.2021, no direction was given to the bank to release the FDs rather the RP was well advised to approach the SBI for release of the said FDs.

25. Since, the reply and arguments of both the parties are common in both the IAs, it is needless to repeat the same.

26. Now, in the light of the submissions, we consider the prayer of the parties, since the SBI has filed the application prior to the filing of the application by the RP, for the sake of convenience, we would like to take up IA/1539/2021 first.

27. On perusal of the IA/1539/2021, filed by the SBI, we notice that the SBI on page 18 of its application has enclosed the e-circular dated 09.01.2012 as Annexure A-1 and also enclosed the additional bank guarantee at page 21 of the application. The scanned copies of both these documents are reproduced below:-

(IB) 456(ND)/2018
IA/3436/2021
& IA 1539/2021



State Bank of India
Corporate Centre - Mumbai

e-Circular

CREDIT POLICY AND PROCEDURES
DEPARTMENT.
Sl. No. : 899/2011 - 12
Circular No. : CDO/CPFD-BANK GUARAN/103/2011 -
12
Tuesday, January 10, 2012.

The Chief General Manager
State Bank of India,
All LHOs/CAG/MCG/SAMG

CPP/SM/CIR/103

Dtd 9th January, 2012

Dear Sir,

REVERSAL OF EXPIRED BANK GUARANTEES

We refer to Credit Risk Management Deptt. Corporate Centre Circular no CRMD/HR/201 dtd 16th October 2007 whereby instructions for reversal of entries pertaining to expired Bank Guarantees in branch books were advised.

2. In this connection, we advise that with a view to optimizing Bank's capital requirements, the existing instructions for reversal of entries have been revisited and it has been decided to follow the undernoted procedure:

Extant instructions	Revised instructions
After the expiry of each BG (including the time limit stipulated for preferring claim, if any), a Registered Letter with A.D. is to be sent to the beneficiary advising that the guarantee has expired and requesting the beneficiary to return the original guarantee document.	No change
a) If the BG is not returned within a period of one month, a reminder is to be sent as Registered letter with A.D.	a) The liabilities in branch books may be reversed after seven days of expiry of the guarantee.
b) Thereafter, liability in Branch books is reduced by the amount of expired BG.	b) If the claim period is different from that of the validity period, the entries may be reversed seven days after the expiry of the claim period.
c) Margin money and the collateral, if any, taken exclusively for relative BG are to be refunded <u>only after return of the original guarantee document.</u>	c) Reminder after one month by Regd AD, if the BG is not returned, and margin/ collateral, if any, taken exclusively for relative BG are to be refunded/released <u>only after return of the original guarantee document.</u>

3. Please arrange to suitably advise Operating Offices under your Control.

Yours faithfully,

Sd/-

(IB) 456(ND)/2018
IA/3436/2021
& IA 1539/2021



ADDITIONAL BANK GUARANTEE FOR OVERDUE EXTERNAL DEVELOPMENT CHARGES AMOUNT FOR DEVELOPING A COMMERCIAL COLONY OVER AN AREA OF 2.837 ACRES IN SECTOR-70A GURGAON MANESAR URBAN COMPLEX, GURGAON.

Bank Guarantee No.....
 Expiry Date : 31/01/2017
 Claim date : 30/04/2017

Dated 29/10/2014.

To

Government of Haryana
 Director Town & Country Planning Department
 Haryana HQ, SCO 71-75,
 Sec - 17C, Chandigarh

This DEED OF GUARANTEE executed by State Bank of Bikaner & Jaipur, incorporated under State Bank of India Subsidiary Act and having its branch office at Ground Floor, Universal Business Park, Sector -66, Gurgaon, Haryana (here in after called the "bank" which expression shall unless excluded by or repugnant to the context, include its successors and assignees in favour of The Director, Town & Country Planning, Haryana for an amount not exceeding Rs. 3,00,000/- (Rupees Three Lakh Only) at the request M/s Universal Buildwell Pvt Ltd.

WHEREAS the Director, as defined under clause (f) of Section 3 of the Haryana Development & Regulation of Urban Area Act 1975 (hereinafter referred to as the "Director") has called upon (Sh. Pramod Kumar Bindal & Others in collaboration with Universal Buildwell Pvt. Ltd. (hereinafter Called the "Owner/Developer") of the one part and the Governor of Haryana acting through the Director, Town & Country Planning, Haryana, (Hereinafter referred to as the "Director") of the other part.

Whereas on this day 29th Oct 2014 the payable overdue EDC amount on account of pending installments including simple and penal interest is Rs. 1338.79 Lacs as a result of which various approvals such as license renewal, demarcation/zoning, building plan etc, are held up in the office of Director.

Whereas the office of Financial Commissioner and Principal Secretary to Government, Haryana, Town & Country Planning Department, Chandigarh has announced a relief policy vide memo no. PF-37/532/2009 - 2TCP dated 12.04.2012 w.r.t. recovery of EDC and interest dues from the colonizers in case of default in payment of scheduled installments & relief in terms of approvals / permissions after securing additional bank guarantee etc. The key guidelines of the above mentioned policy are as briefed below:

For State Bank of Bikaner & Jaipur
 Branch Manager
 Sector 66, Gurgaon, Haryana-734

For State Bank of Bikaner & Jaipur
 Branch Manager
 P. K. BHARDWAJ

(IB) 456(ND)/2018
 IA/3436/2021
 & IA 1539/2021

10. Notwithstanding anything contained herein

- a. Our liability under this guarantee shall not exceed Rs. 3.00 Lakhs (Rupees Three Lakhs only)
- b. The Bank guarantee shall be valid up to 31/01/2017.
- c. We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only if you serve upon us a written claim or demand on or before 30/04/2017.

Thereafter the Bank shall stand discharged of all its liabilities under this guarantee and all your rights under the said guarantee shall stand forfeited and /or extinguished irrespective of whether the guarantee in original is received back by us or not.

This Bank Guarantee consists of Four pages in all.

IN WITNESS WHEREOF THE PARTIES HERETO have executed this Deed on the dates respectively shown under their signatures i.e. this 29th day of Oct'2014.

For
Branch Manager
Sector
Authorised Signatory

Branch Manager & Jaipur
Branch Manager
Sector
Authorised Signatory

NEHA MEENA
B-758

For
Branch Manager & Jaipur
Branch Manager
Sector
Authorised Signatory

P. K. BHARDWAJ
B-758

SASanyal

(True Copy)

28. On perusal of the e-circular dated 09.01.2012(supra), we notice that in clause 2.c), it is mentioned that BG are to be refunded/released only after return of the original guarantee document but when we read this clause along with the bank guarantee enclosed on page 21 of the application, it is seen that it is specifically mentioned on page 23 in the last but three paragraphs - ***“Thereafter the Bank shall stand discharged of all its liabilities under this guarantee and all your rights under the said guarantee shall stand forfeited and/or extinguished irrespective of whether the guarantee in original is received back by us or not.”***

(IB) 456(ND)/2018
IA/3436/2021
& IA 1539/2021

29. Hence, we are of the considered view that even if it is mentioned in the internal e-circular dated 09.01.2012 that BGs are to be refunded/released only after return of the original guarantee document, that can not prevent a person to act as per the terms and conditions mentioned in the bank guarantee document itself. And as per the terms and conditions mentioned in the additional bank guarantee document referred to (supra), we are of the considered view that the return of the original bank guarantee is not a condition precedent to release the FDs in favour of a person. Rather, it is specifically mentioned that “all your rights under the said guarantee shall stand forfeited and/or extinguished irrespective of whether the guarantee in original is received back by the bank or not”.

30. Hence, we are of the considered view that on this ground, the SBI/Applicant herein cannot retain the FDs after expiry of the periods of the bank guarantees. Considering the terms and conditions of the bank guarantee, the Branch Manager of SBI had sent an email dated 11.11.2020 to the RP stating that that bank has no objection. **Hence, we are of the considered view that there is no need to make any modification / clarification in the order dated 22.02.2021 passed in IA/938/2020 and IA/5136/2020 in CP (IB) No. 456/2018.** Hence, this prayer is hereby rejected.

31. Accordingly, the subsequent prayer made by the SBI in the present IA-1539/2021 for retention of the FDs till the original bank guarantees are not returned, is also hereby **rejected**.

(IB) 456(ND)/2018
IA/3436/2021
& IA 1539/2021



32. So far as the third prayer of the SBI Bank that “FDs with the SBI in the name of the ex-director of the Corporate Debtor Mr. Raman Puri cannot be released since the CIRP is of the Corporate Debtor” is concerned, at this juncture, we would like to refer to the prayer made by the RP in IA/3436/2021. The prayer of the RP in respect of this FDR is prayer no. C, which reads as - to “**maintain status quo in respect of FDR amount of Rs. 2,24,68,122/- in the name of Mr. Raman Puri and not to release the same without directions of this Hon’ble Tribunal**”.

33. When we read this prayer made by RP along with submissions of Counsel for the SBI, we are of the considered view that the RP has not prayed for release of the FDR amount of Rs. 2,24,68,122/- in the name of the ex-director of the Corporate Debtor i.e. Mr. Raman Puri. So, this prayer of the SBI shall be considered at the time of considering the prayer of the RP.

34. Accordingly, the IA/1539/2021 stands dismissed.

IA/3436/2021:

35. While considering the prayer of the SBI in **IA-1539/2021**, we have already held that the SBI cannot retain the FDs. Therefore, in terms of the order passed in I.A 1539/2021, **the Respondent Bank is directed to release the FDRs of Rs.1,00,69,272/- in the name of Corporate Debtor to the bank account of the Corporate Debtor.**



36. So far as the second prayer of the RP regarding “maintaining status quo in respect of the FDR amount of Rs. 2,24,68,122/- in the name of Mr. Raman Puri and not to release the same without direction of this Hon’ble Tribunal” is concerned, since, it is in the name of ex-director Mr. Raman Puri, which is not the subject of the moratorium, therefore, we are not inclined to give any direction in respect of this FDR. Hence, this prayer of the RP is hereby rejected.

37. With this, IA/3436/2021 stands disposed of.



(L.N. GUPTA)
Member (T)



(ABNI RANJAN KUMAR SINHA)
Member (J)

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT-II)

Item No. 102
(IB)-456(ND)/2018
IA-4472/2021

IN THE MATTER OF:

Ms. Pallavi Joshi Bakhru

... **Applicant/Petitioner**

Versus

M/s. Universal Buildwel Pvt. Ltd.

... **Respondent**

Under Section: 7 of IBC, 2016

Order delivered on 05.10.2021

CORAM:

SHRI. ABNI RANJAN KUMAR SINHA,
HON'BLE MEMBER (J)

SHRI. L. N. GUPTA,
HON'BLE MEMBER (T)

PRESENT:

Appearance for the SBI: SIDDHARTH SANGAL Adv with Akhilesh G Adv
Abhishek Kumar, Advocate for Applicant (KMBL)
Atul Kansal RP in person

ORDER

IA-4472/2021 - By filing this IA, the Applicant seeks the following reliefs:

"A. Be pleased to recall/modify /amend the order dated 03.07.2018 whereby CIRP was initiated for the Corporate Debtor as a whole and instead order and direct that the admission and CIRP is only in respect of the Universal Aura Project of the Corporate Debtor and that the IRP/RP is appointed only for the said project and he is required to invite claims only in respect of the Universal Aura Project and thereafter Resolution Plan is also to be invited only for the said Universal Aura Project and further that the assets of the said Universal Aura Project are to be maximised under the Plan;

B. In view of the Prayer Clause A being allowed the remaining projects of the Corporate Debtor viz. Universal Business Prime, Universal Greens, Universal Square, Market Square, Pavilion and Universal Trade Tower as also any other project/ asset of the Corporate Debtor, be released from the rigours of the Code;



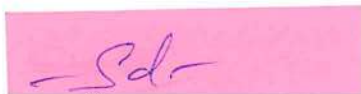
C. Pending disposal of the present application, the approval of Resolution Plan be deferred till disposal of the present application."

Heard the Ld. Counsel for the Applicant as well as the RP and perused the averments made in the application. Ld. Counsel for the RP informs that in this matter, even after reconsideration, the COC has again approved the resolution plan which is pending before this Adjudicating Authority. He submits that the period of CIRP is already over. He further submits that the applicant herein had filed its claim and is a member of the COC.

Whereas the Ld. Counsel for the Applicant submits that in view of the decision of the Hon'ble NCLAT in the matter of Flat Buyers Association Winter Hills -77, Gurgaon v Umang Realtech Pvt. Ltd. through IRP & Ors. (Umang Realtech) (referred to in para 13 on page 6 of the application), the CIRP for builders having more than one project should be project-wise. So, in the light of that decision, the new cause of action has arisen to the Applicant. Therefore, the present application is filed for modification/amendment of the order dated 3rd July 2018 passed by this Bench by which CIRP was initiated.

Considering the submissions made on behalf of the parties and averments made in the application, we find that the applicant has prayed for modification of the order dated 3rd July 2018. The resolution plan in the matter has already been approved by the COC and is pending for consideration before this Bench. The CIRP is also over. Since there is no provision available to us for review of the order passed by this Adjudicating Authority, we are not inclined to allow the prayer of the Applicant. Accordingly, the prayer of the Applicant is hereby rejected.

The IA is Dismissed.



**(L. N. GUPTA)
MEMBER (T)**



**(ABNI RANJAN KUMAR SINHA)
MEMBER (J)**