THE NATIONAL COMPANY LAW TRIBUNAL

COURT VI, NEW DELHI

I.A. 4149/2023

IN

Company Petition No. (IB) – 2432/(PB)/2019

Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016.

IN THE MATTER OF:

MR. B.A. CHANDRASHEKARA SETTY & ORS.

…. FINANCIAL CREDITOR

VERSUS

M/S. INTEC INDIA LIMITED.

….. CORPORATE DEBTOR

AND IN THE MATTER OF-

LEKHRAJ BAJAJ
Resolution Professional of
M/s Intec India Limited

…. APPLICANT/RP

VERSUS

SALES TAX OFFICER
CT & GST CIRCLE,
BHUBANESWAR-1

…RESPONDENT NO 1

ICICI BANK
HAVING ITS BRANCH AT:

S 26, 27, 28 GREEN PARK EXTENSION,
NEAR UPHAAR CINEMA,
NEW DELHI-110016

...RESPONDENT NO 2

YES BANK LIMITED
HAVING ITS BRANCH AT:
GROUND MEZZANINE AND FIRST FLOOR,
PLOT NO. 6, BASANT LOK,
(PRIYA CINEMA, COMPLEX MARKET)
VASANT VIHAR, NEW DELHI-110057

...RESPONDENT NO 3

CORAM:

SHRI. MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)

SHRI RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)

PRESENT

For the RP/ Applicant: Mr. Abhishek Anand, Mr. Sajal Jain and Ms. Rasveen Kaur Kapoor, Adv(s)

For the Respondents: Adv Anupam Singh, for Respondent No 3 i.e., Yes Bank Limited

ORDER

PER- RAHUL BHATNAGAR, MEMBER (TECHNICAL)

Order Pronounced on: 11.01.2024

1. This application has been filed under Section 60(5) read with section 17(1)(d) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016 seeking directions of defreezing bank account of the Corporate Debtor maintained with Respondent No 2 & 3.

2. The applicant in the present application has prayed for the following reliefs: -

   a) *Allow the present application*
   b) *Issue appropriate directions of defreezing bank account of the Corporate Debtor maintained with Respondent No.2 i.e. ICICI Bank bearing Account No. 007105006786 at its branch at S 26,27,28 Green Park Extension, Near Uphaar Cinema, New Delhi-110016 which has been freezed on the instructions of the Respondent No.1;*
   c) *Consequentially issue appropriate directions to Respondent No. 2 i.e. ICICI Bank to defreeze account and allow withdrawal /operation from the account of Corporate Debtor bearing Account No. 007105006786 maintained with ICICI Bank at its branch at S 26,27,28*

Green Park Extension, Near Uphaar Cinema, New Delhi-110016;

d) *Direct the Respondent No. 3- Yes Bank Limited to defreeze account and allow withdrawal /operation from the account of Corporate Debtor bearing Account No. 026463700000698 maintained with Yes Bank Limited at its branch at Ground, Mezzanine And First Floor, Plot No.6, Basant Lok, Priya Cinema, Complex Market) Vasant Vihar, New Delhi-110057 as in view of Section 14 of the Code, the orders passed in Execution Petition No. 900 of 2018 titled as "Pearl International Tours and Travels Ltd. Vs Intec Capital Limited" attaching Account No. 026463700000698 of the Corporate Debtor-M/s Intec India Limited maintained with Yes Bank Limited at its branch at Ground, Mezzanine And First Floor, Plot No.6, Basant Lok,(Priya Cinema, Complex Market) Vasant Vihar, New Delhi-110057 cannot be continued;*

e) *Pass such other further order/order(s) as may be deemed fit and proper in the facts and circumstances of the case.*

3. Briefly stated the facts of the case as mentioned in the instant application, which are necessary for adjudication, are as follows:

    i. That this Adjudicating Authority vide order dated 26.05.2023 admitted the CP IB 2432/PB/2019 and appointed the applicant as Interim Resolution Professional.

ii. In terms of Regulation 6(1) of IBBI Insolvency Resolution Process for Corporate Persons Regulations 2016, public announcement was made on 28.05.2023 and the last date for submission was 09.06.2023.

iii. That as per the claim submitted by the stakeholders, the RP constituted the CoC and the First CoC meeting was held on 24.06.2023 in which the IRP was confirmed to act as RP.

iv. That while taking custody of the assets of the CD, it came to the knowledge of the RP that the CD is having bank accounts in ICICI Bank at Green Park Branch and the said bank account has been frozen by Respondent No 1 pursuant to the order dated 18.06.2020 of Sales Tax Officer.

v. Further, it came to the knowledge of the RP that the CD is having another bank account in Yes Bank in Basant Lok, Vasant Vihar Branch and the same bank account has been attached on 31.05.2023 in an

Execution Proceedings pending before the Ld. ADJ-02, South District, New Delhi in Exe Pet No 900 of 2018 tittled as *"Pearl International Tours and Travels Ltd. v. Intec Capital Limited"* vide order dated 04.03.2023.

vi. That the applicant/RP wrote letter dated 01.06.2023 to Respondent No 2 and 3, intimating the Respondent No 2 & 3 about the initiation of CIRP Process against M/s Intec India Limited (CD) and advised the said bank not to allow any debit transaction in the aforesaid accounts of the CD without the prior authorization of the RP.

vii. The applicant also filed an application before the Ld. ADJ-02 South District, New Delhi in Exe Petition No 900 of 2018 seeking recall of order dated 04.03.2023 and withdraw the attachment of the aforesaid bank account which is pending before the Hon'ble ADJ.

viii. That the applicant wrote letter dated 05.06.2023 to the Respondent No 1, intimating the Respondent No 1 about the initiation of CIRP Process against M/s Intec India Limited (CD) and requested the Department to file its claim, if the department has any outstanding dues against the CD. However, the Department did not respond. The applicant again issued a letter dated 15.07.2023 to the Respondent No 1 to file its claim and requested the Respondent No 1 to issue directions to defreeze the account of the CD.

ix. That no amount can be recovered from the Bank Account of the CD during the pendency of moratorium.

x. That it has already been conveyed to the Respondent No 1 that a claim can be filed if any against the CD in the prescribed format with the RP. However, despite being aware of the CIRP Proceedings the Respondent No 1 is continuing the attachment of the bank account of the CD.

3. Pursuant to the notice issued by this Adjudicating Authority, no one appeared on the dates of hearing on behalf of Respondent No 1 & 2, therefore they were set ex parte vide order dated 10.01.2024. Respondent No 3 i.e., Yes Bank appeared before this Adjudicating Authority and submitted that they have frozen the bank account of the Corporate Debtor pursuant to the order dated 04.03.2023 of Ld. ADJ-02,

South District, New Delhi in Exe Pet No 900 of 2018. Counsel for RP has also made his submissions and prayed for urgently defreezing the accounts of the CD since the CIRP has been held up on account of that.

4. We have gone through the application, documents on record and arguments advanced by counsels for the RP and Yes Bank.

5. That in terms of the provisions of IBC, 2016, once CIRP is initiated, a moratorium is imposed in terms of section 14 of the Code, prohibiting institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority. It is pertinent to refer to relevant portion of section 14 of the Code which reads as under: -

> ***14. Moratorium.*** *- (1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely: -*
> ***(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any***

judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;
(b)transferring, encumbering, alienating or disposing off by the corporate debtor any of its assets or any legal right or beneficial interest therein;
(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

6. In the instant case, the CD was admitted into CIRP on 26.05.2023 and hence the insolvency commencement date is 26.05.2023

7. The objective of Moratorium is to give protection to the CD during the CIRP Period from suits or proceedings against the CD including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority. The purpose is to preserve the assets of the CD so that they can ultimately be dealt with in accordance with the provisions of the Code either through resolution or liquidation.

8. The Insolvency and Bankruptcy Code, 2016 is a complete code and as per Section 238 of the Code, it has overriding

effect on other laws, For the sake of reference, the same is extracted below:

> *"Section 238: "Provision of this code to override other Laws- The Provisions of this code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for time being in force or any instrument having effect by virtue of any such law."*

9. In the present case, the Corporate Debtor holds its primary bank accounts with Respondent No. 2 and 3 banks. The freezing of these accounts has adversely affected the CIRP and in case they are not defreezed it would not be possible for RP/Liquidator to complete the CIRP Process.

10. Therefore, considering the facts and circumstances of the present case, IA 4149/2023 is hereby disposed off in the following terms: -

(1) We direct Respondent No. 2, i.e., ICICI Bank, to defreeze the bank account of the Corporate Debtor (bearing A/C No 007105006786) and permit the RP to operate the said account. Respondent No. 1 is at liberty to file its claim, if any, before the RP/Liquidator.

(2) The bank account maintained at Yes Bank (A/C No 026463700000698) was frozen by Yes Bank on the basis of

order dated 04.03.2023 passed by Ld. ADJ-02, South District, New Delhi. However, it appears that the said order was passed in the Execution Petition No 900 of 2018 in which M/s Intec Capital Limited was the Judgement Debtor and not M/s Intec India Limited (Corporate Debtor). Hence, the RP may file a copy of this order before the Ld. ADJ and seek their orders regarding defreezing of the account of CD (M/s Intec India Limited) in respect of whom moratorium under section 14 of the IBC, 2016 is in operation.

IA No 4149/2023 stands disposed off in terms of the above. Let a copy of the order be served to the parties concerned.

SD/-	**SD/-**
(RAHUL BHATNAGAR)	**(MAHENDRA KHANDELWAL)**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**