

**NATIONAL COMPANY LAW TRIBUNAL
COURT No. – I, MUMBAI BENCH**

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**IA No. 870/MB/2020
in
CP (IB) No. 1061/MB/2017**

**Union Bank of India
V/s
Guruashish Construction Pvt. Ltd.**

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Dated 01 October, 2020

ORDER

The work of the Tribunal has been closed due to Covid-19 pandemic as per letter dated 22.03.2020 and subsequent follow up orders of the Principal Bench, National Company Law Tribunal. The Principal Bench vide Order dated 31.07.2020, constituted this Bench for hearing of the urgent matters through Video Conference (VC).

The matter is taken up on VC. Counsel for the Applicant/RP is present. RP is also present. There is no representation from the side of the Income Tax Department (Respondent) despite service of the notice. Service of Notice against the Respondent held sufficient.

This is an Application filed by the Resolution Professional, seeking a direction against the Respondent/Income Tax Department to lift the order of attachment made under Section 226 of the Income Tax Act, 1961 by the Respondent in respect of the Bank Accounts of the Corporate Debtor.

It is submitted by the Counsel for the Applicant that the Respondent in its order attached the following Bank Accounts of the Corporate Debtor by sending communications to the concerned bank:

Sr. No.	Bank Name	Account Number	Date of Notice
1.	Union Bank of India	315601010036741	15.05.2017
2.	Union Bank of India	414501010036486	15.05.2017
3.	Jammu & Kashmir Bank Ltd.	0446010100000443	15.05.2017
4.	Axis Bank Ltd.	909020045478743	15.05.2017
5.	Kotak Mahindra Bank	7911129370	15.05.2017
6.	Kotak Mahindra Bank	554011017663	15.05.2017
7.	Kotak Mahindra Bank	690011002546	15.05.2017
8.	Punjab & Maharashtra Co-op Bank Ltd	002110100010213	27.03.2017
9.	Ratnakar Bank Ltd	409000029682	24.02.2017
10.	Saraswat Co-op Bank Ltd	016100100900065	24.02.2017
11.	HDFC Bank Ltd.	00600350100965	15.05.2017
12.	Yes Bank Ltd	13480200000789	15.05.2017
13.	Bank of Baroda	3840200001636	15.05.2017

It is submitted that the CIRP against the Corporate Debtor was ordered on 24.07.2017. This Bench on 04.09.2020 passed the Liquidation order against the Corporate Debtor. Now the Ld. Counsel for the RP submitted that for smooth carrying of the liquidation, the attachment ordered by the Respondent needs to be lifted. It is submitted that the Income Tax Department as an Operational Creditor has already filed its claim for Rs.549.44 Crores and the said claim was admitted by the RP. There is also another claim by the Respondent for a sum of Rs.20.48 Crores towards TDS which was not deposited by the Corporate Debtor. This claim has also been admitted by the RP.

In view of the fact that the Respondent as an Operational Creditor has filed the claims before the RP and the said claims were also admitted by the RP, these attachment orders issued by the Respondent prior to the order of CIRP does not have any illustrative

stand. The Counsel for the RP relies on certain judgements to buttress his point that as the Respondent's claims as an Operational Creditor has been admitted, the attachment has to be lifted.

On perusal of these judgements and in view of the fact that Section 238 of the IBC overrides other statutes including the Income Tax Act under which this attachment order has been passed, the provisions of the Code will prevail. Hence the attachment deserves to be lifted for smooth liquidation of the Corporate Debtor.

In view of the above discussion, the Application is allowed. The Respondent is directed to lift the orders of attachment passed by them in respect of the above-mentioned Bank accounts of the Corporate Debtor.

Accordingly the Application is disposed of as allowed.

Sd/-
V. NALLASENAPATHY
Member (Technical)

Sd/-
MOHAMMED AJMAL
Member (Judicial)