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**IA-86/2022** – This IA is filed by the Liquidator under proviso to section 33(5) read with Section 35(1)(k) and 60(5) of the Insolvency and Bankruptcy Code 2016 seeking permission of this bench to invoke arbitration and institute related/ancillary proceedings on behalf of the Corporate Debtor against Indian Oil Corporation Limited (IOCL) and Foster Wheeler (as described in paragraph 10 and 11 of this application) and related or ancillary proceedings in relation to the lumpsum turkey contract dated 28.02.2011 executed for Pradip Refinery Project, including for recovery of monies.

The Learned Sr. Counsel appearing for the Liquidator brought to the Notice of this Bench that since the Corporate Debtor is undergoing Liquidation Process, the said outstanding amount will be helpful and beneficial to the liquidation estate. The recovery of an amount of Rs. 1005/- Crores (Rupees One Thousand Five Crores) is an asset of the Corporate Debtor as it forms part of the liquidation estate, as defined under Section 36 of the Code, and hence, cannot be left out of the liquidation estate. The Applicant herein being the Liquidator of the Corporate Debtor, is required to safeguard/recover the assets of the Corporate Debtor, to maximize the returns of the stakeholders involved in the liquidation process. Therefore, the Applicant humbly requests this Bench to permit to invoke Arbitration Proceedings against IOCL and FW.

Having considered the submissions of the Learned Senior Counsel appearing for the Liquidator and on perusal of the averments made in the IA, this Bench is satisfied and accordingly Liquidator is permitted to invoke Arbitration Proceedings against IOCL and FW.

With the aforesaid observations **IA-86/2022** is **allowed** and **disposed** of.

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**IA-375/2022** – This IA is filed by the Liquidator under section 33(5) read with Section 35(1)(k) and 60(5) of the Insolvency and Bankruptcy Code 2016 read with Rule 11 of NCLT Rules, 2016 seeking approval of this bench to initiate appropriate proceedings on behalf of the Corporate

Debtor against Matix Fertilizers and Chemicals Limited in relation to outstanding redemptions proceeds. The Liquidator needs permission to initiate legal proceedings.

The present application is necessitated on account of default committed by Matix in payment of the redemption amount of INR 310 Crores (being the maturity proceeds of cumulative redeemable preference shares (“**CRPS**”), despite acknowledgment/admission of the liability in the books of accounts of Matix.

The above-mentioned liability arises in terms of and pursuant to an EPC Contracts dated 29.07.2010 (as amended from time to time), the On-shore Contract dated 29.07.2010 and an Off-shore Contract dated 20.08.2010 respectively executed between the Corporate Debtor and Matix (hereinafter cumulatively referred as “**Subject Contracts**”). In terms of the Subject Contracts, pursuant to the works performed, an amount of INR 199.85 Crores had become due and payable. Similarly, against certain approved/notified extra work done, an amount of INR 120.22 Crores was payable by Matix to the Corporate Debtor. Additionally an amount of INR 2.65 Crores was also due towards equipment rental. The aforesaid amount was in addition to the pending amount of outstanding receivables to the tune of INR 250 Crores for the works performed under the aforesaid Subject Contracts.

In the given circumstances, Matix and the Corporate Debtor agreed to convert the receivables to the tune of 250 Crores out of the total amount of INR 250 Crores out of the total amount of INR 450 Crores (approx.) as on March/April 2015, into Rs. 25 Crores CRPS

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redeemable at par at the end of three years with 8% interest divided cumulatively for a period of three years upto its redemption. The CRPS attained maturity on 26.08.2018 and an amount of INR 310 Crores became due and payable by Matix to the Corporate Debtor. The aforesaid amount not having been paid since August 2018 till date, despite acknowledgement/admission by Matix, constitutes “**default**” as defined under Section 3(12) of Insolvency and Bankruptcy Code, 2016. Needless to mention that since the receivables were converted into CRPS, it amounted to infusion of share capital in Matix and therefore, the same can be categorized as loan/contribution towards the share capital of Matix. As such the same falls within the definition of “**debt**” as defined under section 3(11) of Insolvency and Bankruptcy Code, 2016. The said debt, being a part of the share capital, allowed to be converted as a consideration, form part of time value of money (redemption at the end of three of years with yearly pay out of dividend) and hence constitutes “**financial debt**” under Section 5(8) of Insolvency and Bankruptcy Code, 2016.

In view of the foregoing facts and circumstances, the Applicant/Liquidator is considering appropriate proceedings against Matix under Insolvency and Bankruptcy Code, 2016 including but not limited to filing Application under Section 7 or Section 66 or any other provision of Insolvency and Bankruptcy Code, 2016. Since the Corporate Debtor is in liquidation, the Applicant/Liquidator needs permission to initiate legal proceedings.

Having considered the submissions of the Learned Senior Counsel and on perusal of the averments made in the Application, this Bench is satisfied and accord permission to the Liquidator to initiate proceedings as envisaged under Insolvency and Bankruptcy Code, 2016.

With the aforesaid observations **IA-375/2022** is **allowed** and **disposed** of.

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**IA-482/2022** – This IA is filed by the Liquidator of EPC Constructions India Limited (Corporate Debtor) under section 60(5) read with Section 33(5) of the Insolvency and Bankruptcy Code 2016 against the State of Gujarat through the Mamlatdar, Taluka Chauryasi, District Surat (Mamlatdar) and the District Collector, Surat (Collector) seeking directions from this Hon'ble Tribunal against the Respondents for quashing of the Notice No. JMN/Hazira/B.No.364/R.G.No.74/2022 dated 27.01.2022 issued by the Mamlatdar of Chauryasi, Taluka Chauryasi, District Surat pursuant to the proceedings initiated under Section 61 of the Bombay Land Revenue Code, 1879 (hereinafter referred to as "**BLR**") as adopted by State of Gujarat, threatening to take action under Section 79A and 202 of BLR, and stay the effect of the notice in the interregnum during pendency of this Application.

The Liquidator is directed to issue notice to the Respondent. In the meantime the Respondent is directed to maintain status quo in the matter until the next date of hearing. Copy of this Order may be served by the Liquidator on the respondents. List this matter for hearing on **16.03.2022**.

**Sd/-**  
**SHYAM BABU GAUTAM**  
**Member (Technical)**

03.03.2022  
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**Sd/-**  
**JUSTICE P. N. DESHMUKH**  
**Member (Judicial)**