



**NATIONAL COMPANY LAW TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI**

**ORDER SHEET OF THE HEARING ON 12<sup>TH</sup> SEPTEMBER, 2023, 2:30 P.M.**

IA (IBC)/94/GB/2023  
In CP (IB)/12/9/GB/2023

**Present: 1. Hon'ble Member (Judicial), Shri H.V. Subba Rao  
2. Hon'ble Member (Technical), Shri Manoj Kr. Dubey**

Name of the Company	North East Granulators-Applicant -Vs- Sandeep Khaitan & Others-Respondents
Under Section	9 of IBC, 2016

For Petitioner (s) : Mr. Rajarshi Banerjee Adv.

For Respondent (s) :

**ORDER**

Ld. Counsel Mr. Rajarshi Banerjee for the applicant is present. Order pronounced vide separate order. In the result the above I.A.is allowed in terms of prayer Clause (A).

**Sd/-**

**Manoj Kumar Dubey  
Member (Technical)**

**Sd/-**

**H.V. Subba Rao  
Member (Judicial)**





and/or penal consequence whatsoever by anyone or any authority under any law and/or rule and/or regulation in this regard;

- d. Ad interim order in terms of prayers (a) to (c) hereinabove;
- e. Such further order and/or orders be passed and/or direction and/or directions be given as this Hon'ble Tribunal may deem fit and proper.

2. The reasons mentioned in the above application are as follows:

2.1. That Corporate Insolvency Resolution Process (CIRP) had been initiated in respect of the Corporate Debtor on 13.05.2021 pursuant to admission of the instant Company Petition vide an Order dated 05.05.2021. The Applicant is the Successful Resolution Applicant (SRA) in respect of the Corporate Debtor in terms of the Order dated 12.08.2022 passed by this Tribunal, which was received by the Respondent No. 1 on 17.08.2022.

2.2. That the Applicant has successfully met all its payment obligations so far under the Approved Resolution Plan without any default till date, apropos to permitted timelines stipulated under the Approved Resolution Plan. The Applicant and the respondents together constitute the Implementation and Monitoring Committee (IMC) in respect of the Corporate Debtor.

2.3. That the timeline permitted to the Applicant to effect the remaining payments under the said Resolution Plan, read in terms of the Minutes of the 1<sup>st</sup> Meeting of IMC of the Corporate Debtor, expires on 17.08.2023.

2.4. That on account of dissonance and disagreement between the Applicant and Respondent No. 2 with respect to interpretation of certain clauses of the said resolution plan, there is a reasonable apprehension of delay on its part, in meeting the timeline for making the balance, final payments.

2.5. That the Applicant, in order to minimize the litigation as well as associated costs for the pertinent stakeholders as far as possible,



decided to amicably arrive at a consensus, while also not waiving any legal right and/or remedy that the SRA and/or the two sources of funds have against any party, including any of the Respondents herein and also does not constitute any acquiescence whatsoever to any violation of any of their rights and/or entitlements.

2.6. That on request of the Applicant for extension of the timeline for effecting pending payments under the Approved Resolution Plan, the same was discussed in the course of 4<sup>th</sup> Meeting of IMC, held on 19.07.2023, which included all the Respondents herein, including two representatives eligible and mandated to form commercial wisdom on behalf of the erstwhile CoC after the issuance of the Plan Approval Order. The last date proposed in the resolution calling for a revised timeline for effecting balance payments stipulated under the Approved resolution Plan was 12.12.2023 i.e., effectively an extension of around four (4) months was sought by the Applicant/SRA.

2.7. That the Applicant states that the Members of the said committee have unanimously approved on 10.08.2023 the said resolution that effectively proposed an extension of timeline for making balance payments under the Approved Resolution Plan by around four (4) months. Respondent Nos. 1, 2 and 3 have both assented to an extension of timeline for making payments under the Approved Resolution Plan till 12.12.2023. The complete voting results were released by the Respondent No. 1 on 11.08.2023 via email. The Applicant was also instructed by the Committee to file an application with this Tribunal immediately praying for such extension.

2.8. That the Applicant/SRA is exploring means of resolving the deadlock with the Respondent No. 2 apropos the release of the land belonging to its source of fund, while also diligently exploring alternative means of finance to ensure complete implementation of the Approved Resolution Plan within 12.12.2023 insofar as payment



obligations towards creditors eligible for payment thereunder are concerned.

2.9. That there is an extreme urgency in the matter since the timeline for the SRA to effect the last payment stipulated under the Approved Resolution Plan expires on 17.08.2023.

#### ORDER

3. Heard Mr. Rishav Banerjee, the Counsel for the Applicant and perused the record. It is the submission of the Counsel appearing for the Applicant that the Monitoring Committee/ erstwhile CoC vide their Minutes of 4<sup>th</sup> Meeting of IMC held on 19.07.2023 approved for granting extension of 4 months to the SRA for making payments of the balance amount with 100% voting and accordingly directed the applicant to obtain permission from the Adjudicating Authority. Upon a query raised by this Tribunal as to the power of this Bench in entertaining this application more so after approval of the resolution plan, the Learned Counsel appearing for the Applicant has relied upon the citation of **Hon'ble NCLAT in Earthin Projects Ltd. v. Indu Projects Ltd. & Anr** (Company Appeal (AT) (CH) (Ins.) No. 340 of 2022) whereunder, the Hon'ble NCLAT in similar circumstances granted extension.

4. Accordingly, after hearing the Counsel appearing on behalf of the Applicant and keeping in mind the above law laid down by the Hon'ble NCLAT, this Tribunal has no option except to allow the I.A. **Accordingly, the above I.A. is allowed in terms of prayer clause (a).**

5. The Registry is directed to send email copies of the order forthwith to all the parties and their Learned Counsels for information and for taking necessary steps.

6. Certified copies of this order maybe issued, if applied for, upon compliance of all requisite formalities.



7. Thus, the present application i.e., IA (IBC)/94/GB/2023 filed under Section 60(5) of the IBC, 2016 stands disposed of with the above observations and directions.

**Sd/-**

**(Manoj Kumar Dubey)  
Member (Technical)  
& Adjudicating Authority**

**Sd/-**

**(H.V.Subba Rao)  
Member (Judicial)  
& Adjudicating Authority**