



**THE NATIONAL COMPANY LAW TRIBUNAL
COURT VI, NEW DELHI**

I.A. 5423/2022

IN

Company Petition No. (IB) – 22/(ND)/2022

Under Rule 11 of NCLT Rules, 2016.

In the matter of:

M/s KTC India Private Limited

.... PETITIONER/APPLICANT

VERSUS

M/s Destinos India Gurus Private Limited

..... RESPONDENT

CORAM:

**SHRI BACHU VENKAT BALRAM DAS, HON'BLE MEMBER
(JUDICIAL)**

**SHRI RAHUL BHATNAGAR, HON'BLE MEMBER
(TECHNICAL)**

For the Applicant: Mr Harisankar Mahapatra Advocate

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ORDER

PER- BACHU VENKAT BALRAM DAS, MEMBER
(JUDICIAL)

Order Pronounced on: 28.02.2023

1. This is an application filed under Rule 11 of NCLT Rules, 2016 by the Applicant i.e. M/s KTC India Private Limited seeking permission to place on record additional documents. The applicant in the present application has prayed for the following reliefs: -

a. Allow the Petitioner to place on record the documents annexed in para 7 of the present Application; that is as follows: -

a. The financial Statement for the financial years 2018-19 duly signed by Mr. Gurudev Singh Ahluwalia as representative of the Initial Shareholder and Mr. Chander Ahuja as the representative of Subsequent Shareholder.

b. The financial Statement for the financial years 2019-20 duly signed by Mr. Sanjay Malhotra Ahluwalia as representative of the Initial Shareholder and Mr. Chander Ahuja as the representative of Subsequent Shareholder.



c. *The financial Statement for the financial years 2020-21 duly signed by Mr. Gurudev Singh Ahluwalia as representative of the Initial Shareholder and Mr. Sanjay Malhotra as the representative of Subsequent Shareholder.*

2. We have heard the Ld. Counsels for both the parties at length and have gone through the reply filed by the Corporate Debtor.
3. The applicant i.e. M/s KTC India Private Limited prayed to take on record the documents as mentioned above.
4. It is pertinent to refer to the judgement of the Hon'ble Supreme Court in the matter of *Dena Bank (Now Bank of Baroda) Vs. C. Shivakumar Reddy & Anr. 2021 SCC OnLine SC 543* held that there is no bar in law to the amendment of pleadings in an application filed under IBC, 2016 or to the filing of additional documents, apart from those initially filed along with application. Relevant portion of the aforesaid judgement is reproduced as under: -

144. There is no bar in law to the amendment of pleadings in an application under Section 7 of the IBC, or to the filing of additional documents, apart from those initially filed along with application under Section 7 of the IBC in Form-1. In the absence of any

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express provision which either prohibits or sets a time limit for filing of additional documents, it cannot be said that the Adjudicating Authority committed any illegality or error in permitting the Appellant Bank to file additional documents. Needless however, to mention that depending on the facts and circumstances of the case, when there is inordinate delay, the Adjudicating Authority might, at its discretion, decline the request of an applicant to file additional pleadings and/or documents, and proceed to pass a final order. In our considered view, the decision of the Adjudicating Authority to entertain and/or to allow the request of the Appellant Bank for the filing of additional documents with supporting pleadings, and to consider such documents and pleadings did not call for interference in appeal.

5. Based on the judgement as referred to in supra and in the interest of justice, the Tribunal is of the opinion that the present application deserves to be allowed and accordingly, IA 5423/2022 is hereby allowed. Documents filed along with this IA are ordered to be received.

6. In the interest of justice and fair play, we allow the Corporate Debtor to file an additional reply affidavit in response to the additional documents within 7 days from the date of pronouncement of this order.



7. In terms of the above, I.A No 5423/2022 stands disposed off.

Let copy of the order be served to the parties concerned.

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(RAHUL BHATNAGAR)
MEMBER (TECHNICAL)

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(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)