

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV**

**IA-2318/2022
IN
CP/IB/1409/(MB)/2020**

Under Section 7 of the IBC, 2016

In the matter of

Mr. Anuj Bajpai

**Resolution Professional of Corporate
Debtor.**

...Applicant

V/s.

Pratibha Ramesh Patel

...Respondent

In the matter of

Pegasus Asset Reconstruction Pvt. Ltd.

...Financial Creditor

Versus

Radiance Properties (India) Pvt. Ltd.

...Corporate Debtor

Order delivered on:23.06.2023

Coram:

Mr. Prabhat Kumar

Hon'ble Member (Technical)

Mr. Kishore Vemulapalli

Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant in IA-1566/2021:

Ms. Nikita, Ld. Counsel.

For the Respondent:

Mr. Nausher Kohli a/w Mr. Dikshat Mehra and Mr. Honey Chandani, Ld. Counsel.

ORDER

Per: Prabhat Kumar, Technical (Member)

1. This is an application filed on 21/07/2022 by the Resolution Professional seeking order u/s 43(1) r/w 44(1) and 66 of the Insolvency & Bankruptcy Code, 2016 {"Code"}.
2. The applicant submitted that the Corporate Insolvency Resolution Process was initiated against the Corporate Debtor on 26.11.2021; the Applicant was appointed as IRP in order to carry out the Corporate Insolvency Resolution Process of the Corporate Debtor; during course of CIRP, an amount of Rs.52,50,000/- was transferred to one Nexus Central Lab Services Pvt. Ltd. on 11.05.2021.
3. The said amount was paid at the behest of the Respondent towards purchase of an Audi Q7 from the account of the Corporate Debtor. However, the said Audi Q7 was registered in the name of Respondent in her personal capacity.
4. On 15.03.2022, upon perusing the bank statement of the Corporate Debtor, the present transaction came to light and the applicant thus addressed an email to the said Nexus Labs.
5. On 16.03.2022, Nexus labs replied to the aforesaid email dated stating that the said payment was received by Nexus Labs against the sale of a car Audi

Q7. Additionally, the said Nexus Labs also provided a copy of the Registration Certificate and the transfer document showing Pratibha Patel (Respondent) as the Transferee.

6. We heard the Ld. Counsel for the RP. No reply filed by the respondents.
7. This bench finds that the Corporate Debtor was admitted into CIRP on 26.11.2021. On perusal of the Bank Statement, it is also found that the Corporate Debtor paid a sum of Rs.52,50,000/- to M/s. Nexus Central lab Services Private Limited and this amount was debited on 11.05.2021 in its bank account maintained with HDFC Bank Vashi, Sector 17 Branch, Navi Mumbai. It is further noticed from the correspondence with M/s. Nexus Central Lab Services Private Limited that the said payment was made from the account of Corporate Debtor towards the purchase of car Audi Q7 with registration number MH 46BA 4545 in the name of Pratibha Ramesh Patel (Respondent).
8. The applicant has filed the application for declaration of this transaction either a preferential Transaction u/s 43 or a fraudulent one u/s 66 of the code.
9. On perusal of the Ledger account in the name of Respondent in the books of Corporate Debtor as appended to IA No.1566/2022, this bench finds that the said sum has been debited to the respondents account. It is further noticed that the applicant resolution professional has filed IA No.1566/2022, seeking declaration of payment of Rs.3,19,70,000/- as preferential transaction u/s 43 of the Code. This bench finds that the payment of Rs. 52,50,000/- debited to the respondent account results into Part repayment of the amount payable to the respondent by the Corporate

Debtor. In other words, the said amount results into payment of an antecedent debt in priority over other creditors having the effect of putting the respondent in beneficial position then it would have been in the event of distribution of assets being made in accordance with section 53 of the Code. Since, this payment is made for the benefit of related party and discharges the Corporate Debtor of the loan due to such party by an equivalent amount, the said payment is deemed to preferential transaction u/s 43 (4) of the Code.

10. Section 44 provides for restitution of such asset to the Corporate Debtor. Accordingly, this bench directs the respondent to pay a sum Rs.52,50,000/- to the Corporate Debtor within 15 days.

11. In view of this, the present application **IA-2318/2022 is allowed.**

Sd/-
PRABHAT KUMAR
MEMBER (TECHNICAL)
23.06.2023.

Sd/-
KISHORE VEMULAPALLI
MEMBER (JUDICIAL)