



NATIONAL COMPANY LAW TRIBUNAL

COURT ROOM NO. 1

MUMBAI BENCH

Item No. 12

IA(I.B.C)/1234(MB)2025 IN C.P. (IB)/2498(MB)2018

CORAM:

SH. PRABHAT KUMAR

SH. SUSHIL MAHADEORAO KOCHEY

HON'BLE MEMBER (TECHNICAL)

HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON **09.07.2026**

NAME OF THE PARTIES: **AXIS BANK LTD V/s VALECHA LM TOLL PVT LTD**

Section 7 of the Insolvency and Bankruptcy Code, 2016

ORDER

IA(I.B.C)/1234(MB)2025

1. Adv. Arusha Bapat a/w Adv. Abdullah Qureshi for the Applicant are present. Adv. Urvaksh Baria for the Respondent No.2 and 3 is present.
2. The present Interlocutory Application has been filed by the Applicant / Mr. Udayraj Patwardhan Liquidator of Valecha LM Toli Private Limited under Section 60(5) read with Section 35 (1) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of National Company Law Tribunal Rules, 2016. The Applicant seeks following relief :
 - a. *This Hon'ble Tribunal may allow this application in terms of Section 60(5) of the Code.*
 - b. *That this Hon'ble Tribunal be pleased to pass necessary orders directing the Respondent No. 1 to 4 to disclose the assets owned & possessed by the Respondent.*



- c. *That this Hon'ble Tribunal be pleased to direct Respondent No.1 to 4 to handover custody of the assets owned & possessed by Respondent No.1 to 4 along with Original Title deeds.*
 - d. *That this Hon'ble Tribunal be pleased to permit to intimate the jurisdictional sub-registrar (in case of immovable properties) not to permit any or further encumbrances.*
 - e. *That this Hon'ble Tribunal be pleased to dispose of the assets in accordance with provision prescribed under the Insolvency & Bankruptcy regime.*
 - f. *To pass such further and other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.*
3. The Applicant had earlier filed an Interlocutory Application No. 1895/MB/C-1/2022 before this Tribunal seeking appropriate directions to be given to 1 to 4 and Jagadish Valecha, Arvind Kumar Thakkar, Valecha Infrastructure Limited to make a contribution to the assets of the Corporate Debtor to the extent of the losses caused to the Corporate Debtor aggregating to an amount of Rs.63,12,00,000/- (Rupees Sixty-Three Crore and Twelve Lakhs Only) as per section 66(1) of Code. This Tribunal, vide order dated 26.04.2024, allowed the said IA. Relevant portion of which is extracted below:-

"At this Juncture, it is relevant to, state that the Corporate Debtor had availed credit facilities from State Bank of India and Axis Bank to the tune of Rs.211,00,00,000/- (Rupees Two Hundred and Eleven Crore Only) for the project purpose of financing the project. The Respondents herein had submitted the project cost to be Rs.281.00,00,000/- (Rupees Two Hundred and Eighty One Crore Only), if the Corporate Debtor executed the transaction directly with Respondent No.8 it would have lowered the project cost. However, the Corporate Debtor herein refused to do so and has accordingly defrauded the creditors being SBI and Axis Bank by letting the



parent company i.e. VEL make a gain of Rupees Thirty Five Crore. Accordingly, we categorize the first transaction herein as fraudulent transaction and direct the Respondent No. 1 to 4 to pay the Corporate Debtor Rs.35,00,00,000/- (Rupees Thirty Five Crore) within 30 days from the date of this order jointly and severally "

4. It is submitted that as the said order was not complied by the Respondents, the Applicant vide Email dated 17.07.2024 and reminder e-mail dated 06.09.2024 informed the Respondent No.1 to 4 for compliance of order dated 26.04.2024 as the same was pending so long and provided the details of liquidation account of the Corporate Debtor for remittance of the amount. It is submitted that the Respondent No. 1 to 4 despite being aware of the order dated 26.04.2024 failed to comply with the order dated 26.07.2024.
5. It is submitted that as the Respondent No.1 to 4 failed to pay the amount of Rs.35,00,00,000/- (Rupees Thirty Five Crores) with 30 days of date of Order.
6. The Applicant is entitled to recover the amount from attaching their properties and selling them as per the provision prescribed under the Insolvency and Bankruptcy regime to recover the amount due to it and distribute the proceeds thereof to the creditors of the Corporate Debtor in accordance with the provisions of the Code and Regulations made thereunder. It is therefore necessary for the Applicant to be acquainted with the details of the assets and properties of the actionable claim of the Corporate Debtor. It is therefore necessary to direct Respondent No.1 to 4 to restrain from alienating, encumbering or creating any third-party rights on the said properties and prohibit from transferring or charging them by sale, gift, or mortgage or otherwise.
7. It is therefore just and necessary to attach the properties and initiate the Jurisdictional sub-registrar (in case of immovable properties) not to permit the further encumbrances.



8. It is submitted that in view of the aforesaid facts and circumstances the Applicant is constrained to approach this Tribunal in the interest of justice, by way of the present Application filed u/s 60(5) read with 35(lj of the Insolvency and Bankruptcy Code, 2016 seeking directions/order against the Respondent No. 1 to 4 to disclose the assets owned and possessed by Respondent No.1 to 4 and take custody and control of all the assets, property, effects and actionable claims of the corporate debtor.
9. The Respondents herein were directed to file the details of the assets and liabilities on an affidavit.
10. Heard the learned Counsel and perused the material available on record.
11. Respondent No.1 to 3 have placed on record the details of their assets and liabilities whereby it is noted that Respondent No.1 has shares in two DMAT accounts, both of which are stated to be frozen, and he also has a Provident Fund Account. Further the Respondent No.2 is stated to have no assets and is presently drawing monthly salary of Rs. 36,758/-. The Respondent No.3 is stated to have neither any asset nor any source of income. Respondent No.4 has not filed any response.
12. It is noted that the Applicant has sought custody and possession of those assets for realization so as to recover the amount of Rs. 35 crores payable by them jointly or singly pursuant to order dated 26.04.2024. It is also noted that no appeal is pending against the said order, accordingly, the Respondents herein cannot challenge the findings therein before this Tribunal in the present proceedings and the Respondents are obligated to pay these amounts. It is also noteworthy that it is the Respondent No.1 who was responsible for day to day affairs of the Corporate Debtor during the period from 22.04.2010 to 01.07.2011 and the transaction took place during that period. The Respondent No.2 was appointed as Director of the



Corporate Debtor only on 01.07.2017 and remained so till 08.03.2018. Similarly, the Respondent No.3 was appointed as Director of Corporate Debtor only on 08.03.2018 and remained so till 08.10.2020. The Respondent No.4 was appointed on 02.11.2016. This makes it clear that Respondent No.2 to 4 were not Directors at relevant point of time and the order against them was passed as they were Director for certain periods after this transaction. Nonetheless, since order is in force against them, the amount pursuant to such order becomes recoverable

13. The provisions of IBC do not provide delivery of the assets owned by third parties in favour of Resolution Professional / Liquidator for recovery of the monies due from such parties, accordingly, the prayer for custody of the assets owned by third parties cannot be granted.
14. Section 424(3) of the Companies Act, 2013 provides for execution of the orders passed by this Tribunal to send the orders for execution to the courts within the local limits of whose jurisdiction the concerned person voluntarily resides or carries on business or personally works for gain. The Applicant also placed on record Form NCLT-8 prescribed under Rule 56 of the NCLT Rules, 2016 for execution of the order passed by this Tribunal, however the prayer in the Application were not amended suitably.
15. As noted above, none of the Respondent is stated to own any immovable property and the movable property owned by Respondent No.1 are already frozen. Respondent No.2 is drawing meagre salary of Rs. 36,758/- per month, indicating that he may be only employee director only, and such salary is required for maintenance of his family. Accordingly, we are of considered view that no order is required to be passed at this juncture. However, the Applicant shall be at liberty to approach this Tribunal for execution of the said order, in case any other property,



be it movable or immovable, owned by Respondents herein is discovered by the Applicant or the Creditors in future.

16. In terms of above, IA(I.B.C)/1234(MB) of 2025 is **disposed of**.

-Sd/-
PRABHAT KUMAR
MEMBER (TECHNICAL)

Rehan Shaikh

-Sd/-
SUSHIL MAHADEORAO KOCHEY
MEMBER (JUDICIAL)