

IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH, COURT-V

I.A. 136 OF 2023

IN

C.P.(IB) No. 2534 of 2019

Under Section 60(5) read with Section
34 of the Insolvency & Bankruptcy
Code, 2016

Anuj Bajpai

Liquidator of the Corporate Debtor

.....Applicant

In the matter of

Hingiri Textiles

.....Operational Creditor

Versus

Shirt Company (India) Pvt. Ltd

.....Corporate Debtor

Order Pronounced on: 30.06.2023

Coram:

Hon'ble Shri. Kuldip Kumar Kareer, Member (Judicial)

Hon'ble Shri. Prabhat Kumar, Member (Technical)

Appearances (Via Videoconferencing)

For the Applicant:- Mr. Rahul Gaikwad, Advocate a/w Adv. Nikita
Abhyankar a/w Adv.Aman Jhawar a/w Adv. Garima Joshi i/b Gravitass
Legal

Per: Kuldip Kumar Kareer, Member (Judicial)

ORDER

1. The present Application is filed by the Applicant, namely, Mr. Anuj Bajpai being the Liquidator of the Shirt Company (India) Private Limited (hereinafter referred to as **“Corporate Debtor”**) under Rule 154 and Rule 11 of the National Company Law Tribunal Rules, 2016 for rectification/ speaking of the Order date 13.12.2022 in C.P.(IB)/ 2534(MB)2019.
2. The Order dated 13.12.2022 contains IA/3751/2022, IA/397/2022, IA/2898/2021, IA/964/2022, IA/1224/2022, IA/1532/2022, IA/2229/2022, IA/2753/2022 and IA/2859/2022 in C.P.(IB)/ 2534(MB)2019 whereby the Applicant in the present Application has prayed for the rectification in **IA/2229/2022, IA/2898/2021 and IA/2753/2022**, which are as under:

IA. No. 2229 of 2022

3. The Applicant has submitted that IA. No. 2229 of 2022 was filed against the Employee Provident Fund Organisation, Regional Office, Coimbatore (**EPFO**) challenging the claim of the EPFO of Rs. 1.24 Crore. Since no Advocate appeared on behalf of the Respondent, this Tribunal had accepted the suggestion of Liquidator to earmark an amount of Rs. 1,24,86,750/- and create a Fixed Deposit of an equivalent amount pending the hearing and final disposal of the application in this Tribunal. Subsequently, the Applicant has created a Fixed Deposit with State Bank of India to the tune of Rs. 1,25,00,000/- being an amount covering the claim of EPFO. It has been submitted that the same is not recorded in the order of this Tribunal dated 13.12.2022.
4. Pursuant to the above averments, this Bench is of the considered view that in the order dated 13.12.2022 under IA. No. 2229 of 2022 the following paragraphs shall be added:

“The Liquidator submits that the auction is scheduled on December 13, 2022 of the property where charge is created by the Employee Provident Fund Organisation, Regional Office, Coimbatore. Further, the Liquidator submits that an amount of Rs. 1.24 crore out of the sale proceed is a claimed amount of Employee Provident Fund Organisation, Regional Office, Coimbatore. The statement made by the liquidator as to earmarking an amount of Rs. 1,24,86,750/- as claimed by Employee Provident Fund Organisation, Regional Office, Coimbatore is accepted. The liquidator is directed to create a Fixed Deposit of an amount of Rs. 1,24,86,750/- in a Nationalised Bank.”

IA No. 2898 of 2022

5. The Applicant has submitted that appearance of the Advocates for the Respondents in IA No. 2898 of 2022 being ‘Advocate. Shyam Kapadia, Adv. Rahul Gaikwad and Adv. Nikita Abhayankar i/b Gravitas Legal’ has been recorded as ‘Tanushree Sogani i/b Adv. Kunal Kanungo’ who in the fact the Advocate for the Suspended Directors. Therefore, it has been prayed to correct the appearance for the Respondent liquidator. The Bench, therefore, directs that appearance in IA. 2898 of 2022 as mentioned ***“Ms. Tanushree Sogani, Advocate i/b Advocate Kunal Kanungo appearing for the suspended Board of Directors/ Respondents”*** will now be replaced with ***“Advocate. Shyam Kapadia, Adv. Rahul Gaikwad and Adv. Nikita Abhayankar i/b Gravitas Legal – appearing for the Respondent No. 1”***. The order dated 13.12.2022 will stand corrected accordingly to the extent indicated above.

IA. No. 2753 of 2022

6. The Applicant has submitted that the appearance of Advocates for Applicant in IA. No. 2753 of 2022 has wrongly been recorded and should be corrected as follows:

“Advocate. Shyam Kapadia, Adv. Rahul Gaikwad and Adv. Nikita Abhayankar i/b Gravitas Legal”.

Therefore, the Bench is of the view that appearance in IA No. 2753 of 2022 as mentioned **“Mr. Harshal Damania and Adv. Rubina Khan i/b Fortis India Law”** will now be replaced with **“Advocate. Shyam Kapadia, Adv. Rahul Gaikwad and Adv. Nikita Abhayankar i/b Gravitas Legal”**. The order dated 13.12.2022 will stand corrected accordingly to the extent indicated above.

7. The Applicant has further submitted that the amount of Rs. 1.24 Crore claimed by the EPFO Department was erroneously recorded in the separate Application, being IA No. 2753 of 2022 though it no reference in the said IA. This Bench, therefore, directs that the third line of para 3 in the order of said IA. No. 2753 of 2022 reading as **“He further submits that an amount of Rs. 1.24 crore approx. out of the sale proceed is a claimed amount of EPFO Department”** will now stand deleted from the order.
8. Accordingly, the present Application is **“allowed”** and **“disposed of”**.

Sd/-

**PRABHAT KUMAR
MEMBER (TECHNICAL)**

Sd/-

**KULDIP KUMAR KAREER,
MEMBER (JUDICIAL)**