

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
COURT - IV

ITEM No.108

IA No. 288(ND)2021 in (IB)/1265(ND)2019

IN THE MATTER OF:

Autonix Lighting Industries Pvt. Ltd.	...	Applicant
Vs.		
Moser Baer Electronics Ltd.	...	Respondent

Order under Section 9 of IBC.

Order delivered on 30.07.2021

Coram:

**DR. DEEPTI MUKESH,
HON'BLE MEMBER (JUDICIAL)**

**MS. SUMITA PURKAYASTHA,
HON'BLE MEMBER (TECHNICAL)**

PRESENT:

For the Liquidator : Mr. Palash Singhai,
For the Respondent :

ORDER

IA No. 288/ND/2021:

Application filed by the Liquidator seeking direction against HDFC Bank for releasing amount held in fixed deposit as the Bank Guarantees against various Government organisations. Learned Counsel states that nine bank guarantees total amounting to Rs. 31,02,142.66/- were issued against various governments departments. Copies of these Bank Guarantees are annexed. As per the documents annexed, the beneficiaries of such bank guarantees are :-

1. Governor of Gujarat, Excise and Taxation Department, Gujarat
2. Governor of Gujarat, Commercial Tax Department, Gujarat
3. The Assessing Authority, Haryana Value Added Tax, Rohtak, Haryana
4. Deputy Commissioner of Commercial Taxes, Ranchi East Circle, Jharkhand
5. The Assessing Authority, Haryana Value Added Tax, Rohtak, Haryana
6. Deputy Commissioner of Commercial Taxes, Special Circle, Patna
7. Deputy Commissioner of Commercial Taxes, East Circle, Ranchi, Jharkhand
8. The Assistant Commissioner, Commercial Tax, Haridwar
9. The Haryana Value Added Tax, Rohtak, Haryana

Learned Counsel for the HDFC Bank states that they have not filed reply and further Bank Guarantees can be invoked by all these governments authorities within thirty years, as per Section 28 of Contract Act read with

Limitation Act. Hence, they are bound by the contract. Learned Counsel for the applicant states that none of these abovementioned departments have filed their claim before the Resolution Professional or the Liquidator. There is letter on record dated 14.10.2020 written by the Bank to all these parties informing them about the CIRP/Liquidation against the Corporate Debtor and requesting them for issuing discharge letter along with the documents. Learned Counsel for the HDFC Bank states that they have not received any documents from any of the abovementioned Government Departments.

In view of the same, the present amount lying in the bank account in HDFC Bank needs to be transferred to the liquidation account of the Corporate Debtor to form part of liquidation assets which is required to be utilised for benefit of the stakeholders. Learned Counsel for the HDFC Bank states that the applicant was directed to comply the order dated 16.04.2021 to inform the beneficiaries of the bank guarantees. Learned Counsel for the applicant states that they have already informed the abovementioned departments, but some of the departments have merged with the GST Department and they are taking further steps. Be that as it may, no claims have been received on record from any of the above departments till date. We direct the HDFC Bank to refund/transfer the amount of Bank Guarantees as mentioned above to the account of the Corporate Debtor within one week, failing which, the bank will have to give explanation for not complying the order. Learned Counsel further states that prayer (i) and (iii) be also granted. He further states that the current account of Corporate Debtor being A/c No. 05430310000582 needs to be defreezed and further amounts of fixed deposits (amount of Bank Guarantees) of Rs. 31,02,142.66/- are to be transferred in the abovementioned current account as directed above. The account be defreezed and be made accessible to the Liquidator for taking further steps. The current account of the Corporate Debtor be defreezed and Liquidator be allowed to operate the same, forthwith. Application is allowed in terms of prayer (i), (ii) and (iii) and **disposed of**.

Sd/-
SUMITA PURKAYASTHA
MEMBER (TECHNICAL)

Sd/-
DR. DEEPTI MUKESH
MEMBER (JUDICIAL)

MUKESH