

**THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-I**

I.A. 4021 OF 2023

Under Section 32A of Insolvency &
Bankruptcy Code, 2016 r/w Rule 11 of
NCLT Rules, 2016

Sanjeev Maheshwari
Liquidator of Corporate Debtor

...Applicant

Vs.

Tax Recovery Officer

...Respondent

In the matter of

C.P.(IB) No. 247/MB/2017

Indian Bank

Financial Creditor

Vs.

Varun Resources Limited

Corporate Debtor

Order delivered on: 22.11.2023

Coram:

Shri Prabhat Kumar
Hon'ble Member (Technical)

Justice Shri V.G. Bisht
Hon'ble Member (Judicial)

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I.A. 4021 OF 2023

Appearances

For the Applicant : None present
For the Respondent : Ms. Maya Majumdar, Advocate

ORDER

Per: Prabhat Kumar, Member (Technical)

1. This IA 4021/2023 is filed u/s 60(5) of the Insolvency & Bankruptcy Code, 2016 (“Code”) read with Rule 11 of NCLT Rules, 2016, by Sh. Sanjeev Maheshwari, the Liquidator (“Applicant”) of M/s Varun Resources Limited (“Corporate Debtor”) against the Tax Recovery Officer, TRO 2(3), Room No. 545, Aaykar Bhawan, Mumbai – 400 020 (“Respondent”) to seek de-attachment of the three Account, namely A/c No. 910020040540979, 004010201821589, 004010201073191 maintained with Axis Bank Limited by the Corporate Debtor.
2. The Applicant has submitted that during the process of closing down of bank accounts of the Corporate Debtor, it came to the knowledge that the bank accounts held with Axis Bank in the name of M/s Varun Shipping Limited, whose Ship Management & Shipping Investment Business since merged into the Corporate Debtor in terms of Order(s) dated 9.5.2014 & 24.9.2014 passed by the Hon’ble Bombay High Court, have been marked as lien by the Respondent. On account of this, the Applicant is finding it difficult to discharge his duties to take into control and custody of all the assets of the Corporate Debtor.
3. The Corporate Insolvency Resolution Process (“CIRP”) was commenced on 14.06.2017 in the case of the Corporate Debtor, and thereafter, this Tribunal ordered for Liquidation of the Corporate Debtor on 4.12.2018, wherein the Applicant was appointed as Liquidator.

4. A lien was marked by the Respondent on 22.11.2013, however, it came to knowledge of the Applicant on 27.03.2019 when Axis Bank informed about marking of lien by e-mail. Therefore, the Applicant requested the Respondent to lift lien marked by them on the bank accounts vide letter dated 23.05.2019, 28.01.2020 & 31.3.2023.
5. We have heard the learned Counsel and perused the material available on record.
 - 5.1. We find that the Respondent had issued a notice dated 22.11.2013 for recovery of outstanding tax demands against M/s Varun Shipping Co. Limited requiring Axis Bank Limited to remit the money lying therein towards tax payment in terms of Section 226(3) of the Income Tax Act, 1961. Ship Management & Shipping Investment Business of M/s Varun Shipping Co. Limited came to be merged into the Corporate Debtor in terms of Order(s) dated 9.5.2014 & 24.9.2014 passed by the Hon'ble Bombay High Court. Accordingly, all assets & liabilities of M/s Varun Shipping Co. Ltd. became assets & liability of the Corporate Debtor in terms of Clause 3 & 4 of the Approved Scheme of Merger w.e.f. 1.4.2011, and all legal proceedings were to be continued against the Corporate Debtor after the effective date in terms of Clause 7 of the Scheme, i.e. after all the conditions and matters referred to in Clause 70 of the Scheme occur or have been fulfilled or waived in accordance with the Scheme. It is undisputed fact that the aforesaid scheme became effective consequent upon compliance with clause 79 of the Scheme.
 - 5.2. Since, the Bank Accounts in the name of the M/s Varun Shipping Co. Ltd., as such pertained to Ship Management & Shipping Investment Business, these accounts become the assets of the Corporate Debtor. Accordingly, we direct the Respondent to intimate the Axis Bank Limited to lift the lien with immediate effect, and the Axis Bank Limited shall lift the lien forthwith. However, it is clarified if the Respondents have not filed their claim so far in the

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Liquidation proceedings in relation to demands outstanding against M/s Varun Shipping Co. Ltd., they may file their claim to the extent of balances lying in these bank accounts, and the Liquidator shall verify and admit such claims. We have restricted the claim in this respect to the balances, because the only Ship Management & Shipping Investment Business of M/s Varun Shipping Co. Ltd., came to be transferred to the Corporate Debtor, and the tax liability are against whole of Company i.e. Varun Shipping Co. Ltd. which is not possible to relate to the Ship Management & Shipping Investment Business exclusively.

6. In terms of above, IA 4021/2023 is disposed of as allowed.

SD/-

Prabhat Kumar
Member (Technical)

SD/-

Justice V.G. Bisht
Member (Judicial)

**THE NATIONAL COMPANY LAW TRIBUNAL
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I.A. 3426 OF 2023

Under Section 35(1)(b), 32A of Insolvency
& Bankruptcy Code, 2016 r/w Rule 11 of
NCLT Rules, 2016

Sanjeev Maheshwari
Liquidator of Corporate Debtor

...Applicant

Vs.

The Deputy Commissioner
Office of Assistant Commissioner of
Customs

...Respondent

In the matter of

C.P.(IB) No. 247/MB/2017

Indian Bank

Financial Creditor

Vs.

Varun Resources Limited

Corporate Debtor

Order delivered on: 22.11.2023

THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-I

I.A. 3426 OF 2023

Coram:

Shri Prabhat Kumar
Hon'ble Member (Technical)
Appearances

Justice Shri V.G. Bisht
Hon'ble Member (Judicial)

For the Applicant : None present
For the Respondent : Ms. Maya Majumdar, Advocate

ORDER

Per: Prabhat Kumar, Member (Technical)

1. This IA 3426/2023 is filed u/s 60(5) of the Insolvency & Bankruptcy Code, 2016 ("Code") read with Rule 11 of NCLT Rules, 2016, by Sh. Sanjeev Maheshwari, the Liquidator ("Applicant") of M/s Varun Resources Limited ("Corporate Debtor") against the Dy. Commissioner, Kakinada-1 Division, Custom House, Kakinada – 533007 ("Respondent") to seek de-attachment of the (i) three Account, namely A/c No. 910020040540979, 004010201821589, 004010201073191 maintained with Axis Bank Limited; and (ii) Five Accounts, namely A/c No. 000405023935, 629405033971, 000405003393, 039305000189, 039305001739, maintained with ICICI Bank Limited; and (iii) Four Accounts, namely 000320100003463, 000320100005323, 000320100005716, 000320100000014 maintained with Bank Of India by the Corporate Debtor.
2. The Applicant has submitted that the during the process of closing down of bank accounts of the Corporate Debtor with Axis Bank, ICICI Bank Limited and Bank of India it came to the knowledge that the bank accounts held with these Banks in the name of M/s Varun Shipping Limited, whose Ship Management & Shipping Investment Business since merged into the Corporate Debtor in terms of Order(s) dated

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9.5.2014 & 24.9.2014 passed by the Hon'ble Bombay High Court, have been marked as lien by the Respondent. On account of this, the Applicant is finding it difficult to discharge his duties to take into control and custody of all the assets of the Corporate Debtor.

3. The Corporate Insolvency Resolution Process ("CIRP") was commenced on 14.06.2017 in the case of the Corporate Debtor, and thereafter, this Tribunal ordered for Liquidation of the Corporate Debtor on 4.12.2018, wherein the Applicant was appointed as Liquidator.
4. A lien was marked by the Respondent on 22.11.2013 by Axis Bank Limited; on 9.12.2013 by ICICI Bank Limited; however, it came to the knowledge of the Applicant when these Banks informed about marking of lien by e-mail. Therefore, the Applicant requested the Respondent to lift lien marked by them on the bank accounts vide letter dated 16.07.2019, 28.01.2020, 06.09.2020 & 31.3.2023.
5. We have heard the Counsel and perused the material available on record.
 - 5.1. We find that the Respondent had issued a notice for recovery of outstanding tax demands against M/s Varun Shipping Co. Limited requiring these to remit the money lying therein towards tax payment in terms of Section 142 of the Customs Act, 1962. The notice was served on ICICI Bank Limited on 2.12.2013 & Axis Bank on 22.11.2013; Ship Management & Shipping Investment Business of M/s Varun Shipping Co. Limited came to be merged into the Corporate Debtor in terms of Order(s) dated 9.5.2014 & 24.9.2014 passed by the Hon'ble Bombay High Court. Accordingly, all assets & liabilities of M/s Varun Shipping Co. Ltd. became assets & liability of the Corporate Debtor in terms of Clause 3 & 4 of the Approved Scheme of Merger w.e.f. 1.4.2011, and all legal proceedings were to be continued against the Corporate Debtor after the effective date in terms of Clause 7 of the Scheme, i.e. after all the conditions and matters referred to in Clause 70 of the Scheme occur or have been fulfilled or waived in accordance with the Scheme. It

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is undisputed fact that the aforesaid scheme became effective consequent upon compliance with clause 79 of the Scheme.

5.2. Since, the Bank Accounts in the name of the M/s Varun Shipping Co. Ltd., as such bank accounts pertained to Ship Management & Shipping Investment Business, these accounts become the assets of the Corporate Debtor. Accordingly, we direct the Respondent to intimate the Axis Bank Limited, ICICI Bank Limited and Bank of India Limited to lift the lien with immediate effect and the Axis Bank Limited, ICICI Bank Limited and Bank of India Limited shall lift the lien forthwith. However, it is clarified that if the Respondents have not filed their claim so far in the Liquidation proceedings in relation to demands outstanding against M/s Varun Shipping Co. Ltd., they may file their claim and the Liquidator shall verify and admit such claims in so far as it pertains to the only Ship Management & Shipping Investment Business of M/s Varun Shipping Co. Ltd., which came to be transferred to the Corporate Debtor.

6. In terms of above, IA 3426/2023 is disposed of as allowed.

SD/-

Prabhat Kumar
Member (Technical)

SD/-

Justice V.G. Bisht
Member (Judicial)