

IN THE NATIONAL COMPANY LAW TRIBUNAL

COURT-I, MUMBAI BENCH

ITEM No.3

IA 2078/2019; IA 2043/2020; IA 724/2021; IA 1704/2021; IA 1710/2021;
IA 1711/2021; IA 1737/2021; IA 1764/2021; IA 1770/2021; IA 1805/2021
IA 2100/2021; IA 2156/2021; IA 2216/2021 & IA
2391/2021C.P.(IB)1397/MB/2017

IN THE MATTER OF:

Bank of India	...	Financial Creditor
V/s		
Gupta Infrastructure (India) Pvt Ltd	...	Corporate Debtor

Order u/s 43(1) r/w 44 (1),60(5),7 of IBC

Order delivered on **27.01.2022**

CORAM:

JUSTICE PRADEEP NARHARI DESHMUKH
HON'BLE MEMBER (JUDICIAL)

SH. KAPAL KUMAR VOHRA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant:	Mr. Sandeep Bajaj, Mr. Anuj Javeri, Ms. Aakanskha Nehra, Mr. Siddhartha Shukla and Mr. Kamal Thakur Advocates i/b PSL Advocates and Solicitors
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For Respondent:

ORDER

IA 2156/2021

Mr. Sandeep Bajaj, Adv for the Applicant is present. This is an Application u/s 43 for avoidance transaction against the Directors as well as the Company (Gupta Energy). Mr. Manoj Kumar Mishra, Advocate representing the Company has stated that proceeding u/s 43 cannot be initiated against him as Gupta Energy is already under Liquidation. Respondent seeks some time to file Reply. Time is granted. Respondent may file Reply within two weeks from today by duly serving copy to the other side. Applicant is directed to file Reply within a week thereafter with copy to the other side. List this matter on 22.02.2022 for further consideration and hearing.

IA 2078/2019: - Mr. Sandeep Bajaj, Advocate for the Applicant and Mr. Ayush Rajani, PCA for the Respondent No. 1 are present. This is an Application for transaction undertaken by the Corporate Debtor after the issuance of Corporate Insolvency Resolution Process order on 01.02.2018. This transaction took place between 01.02.2018 and 08.02.2018 and the Resolution Professional took charge of the affairs of the Corporate Debtor on 08.02.2018. In the interest of Justice, we direct the Registry to issue notice to the Respondents intimating the next date of hearing as last recourse. In the event, Respondents doesn't appear on the adjourned date, the Application against the Respondents will be proceeded exparte. Registry is directed to file compliance Report. List this matter on **22.02.2022**.

IAs 1704, 1710, 1711, 1737, 1764, 1770, 1805, 2216, 2156 & 2391/21

Mr. Sandeep Bajaj, Advocate for the Applicants is present. None for the Respondents. Record reveals that though the orders were passed earlier to issue notice to the Respondents and by that direction, Applicant to file Affidavit of Service which is duly found complied with. Even today none of the Respondents are present.

In the interest of Justice, we direct the Registry to issue notice to the Respondents intimating the next date of hearing as last recourse. In the event, Respondents doesn't appear on the adjourned date, all the Applications against the Respondents will be proceeded exparte. Registry is directed to file compliance Report.

List this matter on **22.02.2022**.

IA 2043/2020

Mr. Sandeep Bajaj, Advocate for the Applicant is present. This Application has been filed seeking approval of this Tribunal in respect of the action taken by the Applicant in filing of the Complaint Case No. 30998 of 2019 before the Court of Hon'ble Chief Judicial Magistrate, Nagpur in the matter titled as *Gupta Infrastructure India Private Limited v. K.D. Entertainment & Ors.* filed by the Applicant under Section 138 read with Section 142 of the Negotiable Instruments Act, 1881 due to the dishonour of a cheque amount of Rs. 4,13,849. The Applicant has prayed for granting post facto approval to initiate legal proceedings for recovery of licensee fee. The proceedings were lodged by the Applicant on 16.12.2019. In view of the

circumstances explained, the **prayer is allowed**. Accordingly, the Applicant is granted approval after the initiation of liquidation process u/s 33 (5) of the IBC. Accordingly, Application is **disposed of in above terms**.

IA 2100/2021

Mr. Sandeep Bajaj, Advocate for the Applicant is present. The Applicant has prayed to initiate legal proceedings to vacate the security charge created in favour of Bank so that he can auction the goods lying in the premises which is owned by the Applicant. Considering the prayer made in the Application, we do not find it necessary to issue notice to the Corporate Debtor. **Prayer is allowed** to take appropriate legal remedy. Accordingly, Application is **disposed of in above terms**.

IA 724/2021

Mr. Sandeep Bajaj, Advocate for the Applicant is present. Vide our order dated 12.04.2021, the Applicant was directed to initiate legal proceedings or filing Appeal against notice issued by the Income Tax Department. This Application is filed to follow up in respect of notice which was issued by the Income Tax Department. As this Bench has already permitted the Applicant to take necessary actions, **this Application becomes infructuous. Accordingly, the Application is disposed of.**

Sd/-
(JUSTICE PRADEEP NARHARI DESHMUKH)
MEMBER (JUDICIAL)

Sd/-
(KAPAL KUMAR VOHRA)
MEMBER (TECHNICAL)

VEDANT