



**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH-V**  
**SPECIAL BENCH**

**I.A/3238/ND/2024**

**IN**

**CP IB-3131/ND/2019**

***[Under Section 18(f) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of National Company Law Tribunal Rules, 2016]***

**IN THE MATTER OF**

**JINDAL STAINLESS LIMITED**

**... APPLICANT/ OPERATIONAL CREDITOR**

**Versus**

**SINGHAL STRIPS LIMITED**

**... CORPORATE DEBTOR**

**AND**

**IN THE MATTER OF:**

**ANIL KOHLI**

**RESOLUTION PROFESSIONAL OF  
M/s. SINGHAL STRIPS LIMITED**

**... APPLICANT**

**Versus**

**EXCISE AND TAXATION DEPARTMENT**

**... RESPONDENT**

**Order Delivered on: 30.04.2025**

**CORAM:**

**SHRI MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)**

**MS. ANU JAGMOHAN SINGH, HON'BLE MEMBER (TECHNICAL)**



**APPEARANCES:**

**For the Applicant** :  
**For the Respondent** :  
**For the RP** : Mr. Abhishek Anand, Mr. Karan Kohli, Mr. Krishna Sharma, Adv.

**ORDER**

**PER: MAHENDRA KHANDELWAL, MEMBER (JUDICIAL)**

1. The present application i.e., I.A./3238/2024 has been filed under Section 18(f) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'the Code') read with Rule 11 of National Company Law Tribunal Rules, 2016 (hereinafter referred to as 'NCLT Rules') on behalf of Mr. Anil Kohli, Resolution Professional (hereinafter referred to as 'Applicant') of M/s. Singhal Strips Limited (hereinafter referred to as 'Corporate Debtor'), seeking appropriate directions against the Respondent for removal of lien/attachment from the asset of the Corporate Debtor situated at 58 K.M. Stone, Delhi Rohtak Road, Village Ismaila, Rohtak, Haryana-124501 (hereinafter referred to as 'subject property').
2. The Applicant herein, has sought the below mentioned relief vide the instant application:
  - a. *Allow the present application;*
  - b. *Issue appropriate directions to the Respondent for lifting the lien/attachment from the asset of the Corporate Debtor located at 58 K.M. Stone, Delhi Rohtak Road, Village Ismaila, Rohtak, Haryana-124501, being an asset of the Corporate Debtor in terms of Section 18(f) of the I&B Code, 2016;*
  - c. *Pass such other or further order(s) as may be deemed fit and proper in the facts and circumstances of the instant case.*



The facts leading to the instant application and are necessary for the adjudication of the same, are mentioned hereinbelow:

- A. An Application was filed by the Operational Creditor under Section 9 of the Code against the Corporate Debtor herein, bearing *C.P.(IB) No.: 3131/2019*, which was admitted vide Order dated 30.10.2023 passed by this Adjudicating Authority. Resultantly, moratorium in accordance with Section 14 was declared vide the aforementioned Order dated 30.10.2023.
- B. Thereafter, the Committee of Creditors (hereinafter referred to as 'CoC') was held on 11.12.2023 during which the Applicant herein was appointed as Resolution Professional (hereinafter referred to as 'RP'), which was subsequently approved by this Adjudicating Authority vide Order dated 11.03.2024.
- C. After taking control of the Corporate Debtor, the Applicant herein sent a letter dated 19.03.2024 and thereafter, an email dated 22.03.2024 to the Respondent herein informing about the replacement of the erstwhile RP along with the stipulation that any proceedings ongoing against the Corporate Debtor herein would not continue till the completion of the Corporate Insolvency Resolution Process (hereinafter referred to as 'CIRP'). Further, it was notified that the claims of the Respondent, if any, submitted with the Applicant herein shall be treated as per the provisions of Section 53 of the Code.
- D. In pursuant to the CIRP and its allied proceedings, the Applicant sent an email dated 06.04.2024 requesting the Respondent to remove the lien/attachment held by the Respondent over the subject property of the Corporate Debtor. Thereafter, the Applicant herein sent another reminder



vide email dated 11.04.2024 requesting for aforementioned removal of lien. Thereafter, the Authorised Representative of the Applicant herein visited the office of the Respondent on 10.04.2024 apprising them of the instant application and informing them that proceedings ought to occur in accordance with the Code.

- E. It is pertinent to mention herein that the Respondent, in furtherance to the public announcement made by the Applicant herein, submitted its claim under FORM-B with Applicant to the tune of Rs. 25,04,65,189/- on 29.04.2024. The Applicant herein acknowledged the said claim and sent an email seeking clarification and certain supporting documents required for the completion of verification process.
- F. Thereafter, the Applicant informed the Respondent about admission of its claim amounting to Rs. 14,70,02,080/- out of the total claim of Rs. 25,04,65,189/- along with the basis of admission vide email dated 30.05.2024.
- G. In furtherance of the admission of the claim, the Applicant sent an email dated 04.06.2024 to the Respondent again requesting the Respondent to remove the lien/attachment held by the Respondent over the subject property and apprised the Respondent that the claim filed by the Respondent shall be treated as per the waterfall mechanism under Section 53 of the Code.
- H. Despite emails and follow ups, the Respondent neither lifted/vacated the lien marked on the asset of the Corporate Debtor nor replied to any of the emails sent by the Applicant.
- I. On 10.06.2024, one Mr. Anil Balraj, in the capacity of being Director of Anil Balraj Construction Pvt. Ltd., sent a letter to the Applicant herein informing



about the pendency of a writ petition with respect to the subject property before the Hon'ble High Court of Punjab and Haryana. The former company has stated to have vested interest in the subject property.

J. It is stated herein that Punjab and Sindh Bank, who is a secured Creditor of the Corporate Debtor herein, had the first and exclusive charge over the subject property and had put up the said subject property for auction on 26.02.2021 at a fixed price of Rs.10.60 Crores in accordance with SARFAESI Act, 2002 for enforcement of its security interest.

Thereafter, Mr. Anil Balraj (on behalf of Anil Balraj Construction Pvt. Ltd.) won the said auction on 31.03.2021 and submitted the total sum of Rs.2.69 crores, i.e., 25% of the total auction amount and the residual amount was said to be paid within 15 days of the said auction.

K. However, pursuant to the auction dated 31.03.2021, Respondent herein, on 02.04.2021, sent a letter to the *Tehsildar*, Sampla, District Rohtak stating that an amount of Rs. 1,91,85,399/- was due and recoverable from the Corporate Debtor under the Haryana General Sales Tax Act, 1973 along with Haryana Value Added Tax Act, 2003 as well as Central Sales Tax Act. Consequently, the said subject property was ordered to be attached by the Respondent for the recovery of the aforementioned amount.

L. The Respondent sent a letter dated 05.04.2021 to the aforementioned *Tehsildar* directing the concerned *Tehsildar* to not register any sale deed in respect to the subject property. Subsequently, the said subject property was attached by the Respondent herein vide *Rapat* No. 379 dated 05.04.2021 and a lien was entered into with respect to the subject Property.

M. In furtherance of the said attachment, Mr. Anil Balraj (on behalf of Anil Balraj



Construction Pvt. Ltd.) filed a Writ Petition bearing No.: CWP 11275/2021, before the Hon'ble High Court of Punjab and Haryana praying the issuance of appropriate writ against the letter dated 05.04.2021 vide which the Respondent had directed the concerned *Tehsildar* to not to register sale deed in respect of the said property and subsequent removal of the lien from the said subject property along with directing the Respondent not to forfeit the amount deposited by the Punjab & Sindh Bank in furtherance of the e-auction.

It is pertinent to mention herein that the Hon'ble High Court of Punjab and Haryana vide order dated 29.06.2021 directed the Punjab & Sindh Bank not to forfeit the amount deposited by the Anil Balraj Construction Pvt. Ltd.

N. It is pertinent to mention herein that the Applicant/RP has also filed an application bearing no.: CM/6743/CWP/2024 for impleading the Applicant as a party in the said Writ Petition and the same was taken on record vide order dated 24.04.2024.

O. As per Section 18(f) of the Code, the Applicant herein is vested with the responsibility to take control and custody of the assets over which the Corporate Debtor has the ownership rights as recorded in the Balance Sheet of the Corporate Debtor, including the assets that may or may not be in possession of the Corporate Debtor at the time.

P. It is pertinent to mention herein that since the subject property was never successfully transferred to one Mr. Anil Balraj as a result of the e-auction dated 31.03.2021 due to the non-payment of the instalments of the consideration so ascertained by Punjab & Sindh Bank; therefore, the ownership is considered to be retained by the Corporate Debtor. And



subsequently, CIRP was admitted against the Corporate Debtor; hence, any proceedings would lie in abeyance till the completion of the CIRP process.

Q. Accordingly, custody and control over the said subject property of the Corporate Debtor has to be vested with Resolution Professional in all respect in accordance with Section 18 of the Code read with Section 14 of the Code.

4. This Adjudicating Authority has heard the submissions made by the Ld. Counsel for the Applicant and have carefully gone through the documents produced on record in conjunction with the averments tendered therein.
5. This Adjudicating Authority has observed that notice to the Respondents were issued vide order dated 05.07.2024 and the proof of service of notice has been filed by the Applicant herein. However, no reply has been filed by the Respondents and no counsel on behalf of Respondents had appeared on any date of hearing despite providing several opportunities to the Respondents herein. Therefore, Respondents are set *ex parte* vide Order dated 01.04.2025.
6. It has been sufficiently established by the Applicant herein that the consideration, as ascertained through the e-auction by Punjab & Sindh Bank amounting to Rs.10.60 crores was not paid by one Mr. Anil Balraj (on behalf of Anil Balraj Construction Pvt. Ltd.) in its entirety to the aforementioned Bank. It is pertinent to mention herein that the aforesaid individual had only paid upto 25% of the total sale consideration.
7. It is settled principle of law that sale can only be said to be completed once the entire amount of sale consideration is paid in accordance with the Rule 8 and Rule 9 of the of the Security Interest (Enforcement) Rules, 2002 read with Section 13 of



SARFAESI Act, 2002. The said principle was propounded through the judgment passed by the Hon'ble Supreme Court in the matter of **Indian Overseas Bank vs. RCM Infrastructure Ltd. & Anr.** Further, it has also been highlighted in the said judgment that if CIRP proceedings against the Corporate Debtor gets initiated, thereafter, SARFAESI proceedings cannot continue.

In the instant factual matrix, it is established that the entire sale consideration was not paid by the alleged auction-purchaser with respect to e-auction dated 31.03.2021; therefore, it is stated that the ownership with regards to the subject property was not transferred, thereby the ownership ought to be retained by the Corporate Debtor till the admission of CIRP against the Corporate Debtor.

8. At this juncture, it is appropriate to understand and interpret Section 25 of the Code, which is reiterated hereinbelow—

**“25. Duties of Resolution Professional—**

1. *It shall be the duty of the resolution professional to preserve and protect the assets of the corporate debtor, including the continued business operations of the corporate debtor.*
2. *For the purposes of sub-section (1), **the resolution professional shall undertake the following actions, namely—***
  - a. **take immediate custody and control of all the assets of the corporate debtor, including the business records of the corporate debtor;**
  - b. *represent and act on behalf of the corporate debtor with third parties, exercise rights for the benefit of the corporate debtor in judicial, quasi-judicial or arbitration proceedings;*



- c. *raise interim finances subject to the approval of the committee of creditors under section 28;*
- d. *appoint accountants, legal or other professionals in the manner as specified by Board;*
- e. *maintain an updated list of claims;*
- f. *convene and attend all meetings of the committee of creditors;*
- g. *prepare the information memorandum in accordance with section 29;*
- h. *invite prospective resolution applicants, who fulfil such criteria as may be laid down by him with the approval of committee of creditors, having regard to the complexity and scale of operations of the business of the corporate debtor and such other conditions as may be specified by the Board, to submit a resolution plan or plans.*
- i. *present all resolution plans at the meetings of the committee of creditors;*
- j. *file application for avoidance of transactions in accordance with Chapter III, if any; and*
- k. *such other actions as may be specified by the Board.”*

9. In addition to the aforementioned section, it is equally vital to interpret Section 18 of the Code, which is reproduced hereinbelow—

*“18. Duties of Interim Resolution Professional—*

*The interim resolution professional shall perform the following duties, namely—*

- a. *collect all information relating to the assets, finances and operations of the corporate debtor for determining the financial position of the corporate debtor, including information relating to—*
  - (i) *business operations for the previous two years;*



- (ii) *financial and operational payments for the previous two years;*
- (iii) *list of assets and liabilities as on the initiation date; and*
- (iv) *such other matters as may be specified;*
- b. *receive and collate all the claims<sup>J2</sup> submitted by creditors to him, pursuant to the public announcement made under sections 13 and 15;*
- c. *constitute a committee of creditors;*
- d. *monitor the assets of the corporate debtor and manage its operations until a resolution professional is appointed by the committee of creditors;*
- e. *file information collected with the information utility, if necessary; and*
- f. take control and custody of any asset over which the corporate debtor has ownership rights as recorded in the balance sheet of the corporate debtor, or with information utility or the depository of securities or any other registry that records the ownership of assets including—**
  - i. assets over which the corporate debtor has ownership rights which may be located in a foreign country;**
  - ii. assets that may or may not be in possession of the corporate debtor;**
  - iii. tangible assets, whether movable or immovable;**
  - iv. intangible assets including intellectual property;**
  - v. securities including shares held in any subsidiary of the corporate debtor, financial instruments, insurance policies;**
  - vi. assets subject to the determination of ownership by a court or authority;**
- g. *to perform such other duties as may be specified by the Board.*



*Explanation—For the purposes of this section, the term “assets” shall not include the following, namely—*

- a. assets owned by a third party in possession of the corporate debtor held under trust or under contractual arrangements including bailment;*
- b. assets of any Indian or foreign subsidiary of the corporate debtor; and*
- c. such other assets as may be notified by the Central Government in consultation with any financial sector regulator.”*

10. A thorough reading of the aforementioned sections delineates the responsibilities as well as functions to be discharged by the Resolution Professional after the initiation of the CIRP with respect to the Corporate Debtor. It is pertinent to mention herein that any and all of the assets owned by the Corporate Debtor, at the time of the admission of CIRP with respect to the Corporate Debtor, is to be taken control of, by the Resolution Professional. Such assets are determined with the immediately preceding Balance Sheet of the Corporate Debtor and the details mentioned therein.

11. It has already been established that sale consideration was not completed, leading to the ownership of the subject property having not been transferred. Additionally, it is explicitly provided that after initiation of moratorium, any proceedings will not continue against the Corporate Debtor after the initiation and/or admission of CIRP with respect to the Corporate Debtor.

12. Accordingly, it is pertinent to mention herein that the lien/attachment thus formed by the Respondent herein, cannot be continued after the admission of CIRP in accordance with Section 14 of the Code. The lien/attachment should be removed



in accordance with the provisions of moratorium after the admission of CIRP vide Order dated 30.10.2023.

It should also be noted that the Respondent herein has also submitted the claim with the Applicant herein. Thus, the amount for which the Respondent herein had created the lien/attachment over the subject property becomes redundant due to the claim filed by the Respondent herein. It is also further highlighted that the Applicant herein had requested the Respondent vide email dated 03.05.2024 to provide with supporting documents in order to establish the claim so filed by the Respondent authority; however, no documents were provided to ascertain the authenticity of the claim amount submitted by the Respondent.

13. That in the order passed by this Adjudicating Authority (Kolkata Bench) in the matter of **Ram Ratan Modi (RP of Duncans Industries Ltd.) Vs ICICI Bank (Darjeeling Branch); C.P.(IB) No.: 184/KB/2018** where the following has been observed:

*“10. What pains us is to see such applications being filed so often even after the point of law stands settled in this regard. One of the objects of the Code is to conduct the CIRP in a time bound manner, therefore, to save time upon the coming to knowledge of the order of admission of the corporate debtor into CIRP, the statutory authorities should withdraw their direction attachment from the assets of the corporate debtor.*

*11. Specially in cases such as this, where the authorities have filed their claims with the Resolution Professional. After filing their claim with the resolution professional, it is only prudent that the authorities withdraw their directions.”*

14. In the view of the law laid down by this Adjudicating Authority in catena of



judgments, any statutory or government authority cannot initiate or continue proceedings in regards to assets of the Corporate Debtor. As CIRP is a time bound process and has to be completed within the stipulated time to safeguard the interest of the Corporate Debtor and creditors of the Corporate Debtor; hence, any action taken by any statutory authority or any other person delaying or creating hurdle in the completion of CIRP is held to be in contravention to provisions of the Code.

15. Resultantly, this Adjudicating Authority is inclined to allow the instant application. In view thereof, the Respondent herein is directed to remove the lien/attachment over the said subject property and direct the Respondent to follow-up with the claim that has been submitted by the Respondent herein.

In view of the above, the **I.A./3238/ND/2024 stands approved** in terms of the aforesaid discussion and is accordingly disposed of.

Let the copy of the order be served to the parties.

**Sd/-**  
**(ANU JAGMOHAN SINGH)**  
**MEMBER (TECHNICAL)**

**Sd/-**  
**(MAHENDRA KHANDELWAL)**  
**MEMBER (JUDICIAL)**