

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

ITEM No. 416
IA-4081/ND/2021
(IB)-248/ND/2019

IN THE MATTER OF:

Argentium International Pvt. Ltd.	...	Applicant
Vs.		
UTM Engineering Pvt. Ltd.	...	Respondent

Order under Section 9 of IBC.

Order delivered on 01.10.2021

Coram:

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

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

PRESENT:

For the Applicant	: Mr. Jagjit Singh, Sr. Counsel for Railways, Mr. Surendra Suryan, Adv.
For Tantia Construction Limited	: Mr. Rajshekhar Rao Sr. Counsel, Mr. Angad Mehta, Mr. Vipul Agrawal, Advs.
For the Liquidator	: Mr. Abhishek Anand, Adv
For Red Brick Consulting Pvt. Ltd.	: Mr. Rajesh Bhardwaj, Mr. Ajay Pal Singh, Advocates

ORDER

IA-4081/ND/2021:

This is an application filed by Railways seeking to vacate the stay order passed by this Bench dated 29.07.2020. Mr. Jagjit Singh, Learned Counsel for Railways states that in compliance of the order dated 05.07.2021 & 27.07.2021, the Status Report was filed by the Railways. Though the Railways were directed to file the Status Report in this application on the last date, the same has not come on record. The Status Report is placed by Learned Counsel for the Liquidator is one of the JV Partner UTM Engineering along with its reply. Learned Counsel for Railways took us through the report. The project entrusted on JV by the Railway is the construction work of the tunnel which was to be completed within

certain timeline. As admitted by all the parties, the same is not progressing as per the timeline required due to various reasons. Learned Counsel further states that the project is of national importance and any delay in execution is cost on the public exchequer. It is further stated by Learned Counsel for the Railways that for the construction work to be completed by J.V, the Railways is ready to fund the project and also has released some money in account of JV. Learned Counsel for Railways further states that one of the JV Partner going into liquidation and differences between JV Partners is seriously affecting the construction work and completion of the project. In public interest, the project should be the prime concern and Railways could need to take urgent steps to take decision with whom to go ahead with the project. During the argument it was submitted by the Railways that they have already released some money in the JV account for taking ahead the progress in the construction of the tunnel work. Mr. Aman, Learned Counsel for one of the party who is interested in taking over the JV Partner (UTM Engineering Private Limited) as going concern, states that all endeavours are being made to participate and co-operate for completion of the project work. The report itself mentions at para 19 that the Railways are interested in taking ahead this project with the JV but in order to progress the construction work, free hand should be given to JV Partners, for spending on construction work. The Railways has further mentioned that constitution of JV could not be changed as the project is given to JV only, hence, even if one of the JV Partner undertakes responsibility of work progress and takes ahead the project, the Railways are ready to consider the same as long as the construction of tunnel is taken up urgently. Today we have both the JV Partners before us where one of the JV Partner has gone into liquidation, for whom an offer by bidder to take it as a going concern is at advanced stage and the other JV Partner, who is ready and interested in taking ahead the construction work. Both the JV Partners are directed to co-ordinate and co-operate with each other to take ahead the completion of the project work, keeping in loop the Railways who shall have final say to decide the mode of progress to complete the tunnel work. The Liquidator of one of the JV Partner and other JV Partner Tantia Construction are directed to

erase deficiencies, if any and go ahead with the work. The other applications are coming up on 12.10.2021. Before that all the three parties are directed to find out an amicable solution to resolve all the pending issues which are revolving around the completion of project and affecting the construction of the tunnel work.

The Liquidator is required to co-operate and take all necessary steps, including consent for withdrawing, any money required for completion of the project, as per the directions by Railways. In the report itself the Railways have mentioned that they are not interested in termination of the contract but only the completion of the tunnel construction. Hence, Railways shall make all endeavours to sit across JV Partners and other interested parties to expedite the work on urgent basis.

List on **12.10.2021**.

Sd/-
SUMITA PURKAYASTHA
MEMBER (TECHNICAL)

UPASANA

Sd/-
DR. DEEPTI MUKESH
MEMBER (JUDICIAL)