

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT – VI

Item No. 2
I.A. 2028/2020 IN IB-1756/PB/2018

IN THE MATTER OF:

JAGAT PAL PALIWAL & ANR.

...FINANCIAL CREDITOR

VERSUS

JASSUM PROPCON PROJECTS PRIVATE LIMITED

...CORPORATE DEBTOR

**Order under Section 14 r/w Section 60(5) of the Insolvency
and Bankruptcy Code, 2016.**

Order delivered on 13.07.2023

Coram:

Shri. Bachu Venkat Balaram Das, Hon'ble Member (Judicial)

Shri. Rahul Bhatnagar, Hon'ble Member (Technical)

ORDER

Order pronounced in open Court vide separate sheets.

IA/2028/2020 stands allowed.

SD/-
(RAHUL BHATNAGAR)
MEMBER (TECHNICAL)

SD/-
(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT VI, NEW DELHI**

I.A. 2028/2020

IN

Company Petition No. (IB) – 1756/ (PB) /2018

*Application under Section 14 r/w Section 60(5) of the Insolvency and
Bankruptcy Code, 2016.*

IN THE MATTER OF:

JAGAT PAL PALIWAL & ANR.

...FINANCIAL CREDITOR

VERSUS

JASSUM PROPCON PROJECTS PRIVATE LIMITED

...CORPORATE DEBTOR

AND IN THE MATTER OF:

MR. SAPAN MOHAN GARG

RESOLUTION PROFESSIONAL

JASSUM PROPCON PROJECTS PRIVATE LIMITED

.... Applicant

Versus

1. CENTRAL BUREAU OF INVESTIGATION

Government of India, Anti-Corruption Branch,
Section 30A, Chandigarh – 160030

...Respondent No. 1

2. CORPORATION BANK

D-50, Priya Cinema Complex, Basant
Lok, Vasant Vihar, New Delhi-110057

...Respondent No. 2

3. RBL BANK

Ground Floor, Block A, Unit - 7 & 14, Iffco Chowk,
Gurgaon, Haryana- 122001

...Respondent No. 3

4. MINISTRY OF CORPORATE AFFAIRS

'A' wing, Shastri Bhawan
Rajendra Prasad Road,
New Delhi - 110001

...Respondent No. 4

Order Pronounced on: 13.07.2023

CORAM:

SHRI. BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)

SHRI. RAHUL BHATNAGAR, MEMBER (TECHNICAL)

For the Applicant: Ms. Varsha Banerjee

ORDER

PER-RAHUL BHATNAGAR, MEMBER (TECHNICAL)

1. The present Application has been filed by the Applicant under Section 14 r/w Section 60(5) of the Insolvency and Bankruptcy Code, 2016 seeking the following reliefs:
 - a) Allow the instant application;
 - b) De- freeze the Account No. 510101000603243 maintained by Corporation Bank and Account No. 1011612010000005 maintained by RBL Bank;
 - c) Restrain the Respondent No. 1 and Respondent No. 4 from proceeding against the Corporate Debtor during pendency of the insolvency proceedings before this Tribunal;
 - d) Direct the Respondent No. 1 to keep its letter dated 22.09.2016 and 07.10.2016 as addressed to Corporation Bank and RBL bank in abeyance during the pendency of insolvency proceedings;
 - e) Direct the Respondent No. 4 to keep its direction as regards freezing of the accounts of the Corporate Debtor in abeyance during the pendency of the insolvency proceedings;

- f) Pass an ex-parte ad-interim order in terms of prayer (d) and (e) above; and
- g) Pass such other order / directions as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

2. The Applicant has made the following averments:


- i. That an Application was preferred by Jagat Pal Paliwal & Anr., Financial Creditors in class of Corporate Debtor, for initiating Corporate Insolvency Resolution Process ('CIRP') of the Corporate Debtor, under Section 7 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, before this Tribunal. This Tribunal vide order dated 31.10.2019 initiated CIRP of the Corporate Debtor and appointed the Applicant Mr. Sapan Mohan Garg as the Interim Resolution Professional to carry out the functions as envisaged under IBC.
- ii. That Applicant vide its letter dated 21.11.2019 intimated Respondent No. 2 and vide its letter dated 21.11.2019 and 26.11.2019 intimated the Respondent No. 3, regarding commencement of CIRP and appointment of Applicant as



Interim Resolution Professional under the provisions of IBC in the matter of Corporate Debtor. The Respondent No. 2 i.e. the Corporation Bank vide its letter dated 25.11.2019 intimated the Applicant that the account of the Corporate Debtor bearing No. 510101000603243 is frozen as per the instruction of CBI.


iii. That the Applicant time and again through various mails requested Respondent No. 2 for providing copy of the CBI notice which directed to freeze the bank accounts of the Corporate Debtor. However, till date the Respondent No. 2 has not provided any copy of the notice of CBI. The Respondent No.1 vide its letter dated 07.10.2016 addressed to Respondent No. 3 requested the Respondent No. 3 to stop operations of the bank account of the Corporate Debtor herein. Consequently, just after issuance of letter dated 07.10.2016 the accounts of the Corporate Debtor were marked frozen.

iv. That Respondent No. 3 vide its email dated 03.02.2020 intimated the Applicant by attaching a letter that they received letter from Ministry of Corporate Affairs directing them to freeze the accounts of the companies which have been struck off under Section 248 of the Companies Act, 2013 for non-filing



of annual returns or balance sheet consequently for two financial years.

- v. That the Applicant vide its email dated 05.02.2020 asked the Respondent No. 3 to explain under which circumstances they had marked their accounts as frozen as they were aware that the Corporate Debtor is undergoing CIRP. Further, the Applicant vide its email dated 06.03.2020 requested Inspector of Police, CBI to de-freeze the Bank Accounts of the Corporate Debtor and enable the Applicant to proceed with the CIRP of the Corporate Debtor. CBI replied to the Applicant vide email dated 13.03.2020, wherein it was informed that the charge sheet has already been filed and the case is under trial and therefore, all the documents/articles/bank accounts seized during investigation can be released by the concerned court i.e. Special Judge, CBI, Haryana at Panchkula.
- vi. That on account of marking the above accounts as freeze, the Resolution process of the Corporate Debtor is being interfered with as the amount of Rs.59,35,792/- which is lying in the said accounts, if permitted to be de-freezed, may facilitate



resolution of the Corporate Debtor and carrying of the operations of the Corporate Debtor as a going concern.


vii. That the Applicant in the said background can accordingly, utilize the funds for meeting the day to day expenses. In the above facts and circumstances instant application is being filed by the Applicant for de-freezing of accounts.

3. Notice of the Application was duly served on the Respondents.

However, the Respondents failed to appear on any of the date of hearing and are therefore, set ex-parte. During the pendency of the present application, this Tribunal vide its order dated 03.02.2021 initiated Liquidation of the Corporate Debtor.

4. The bank accounts of the Corporate Debtor were frozen on instruction of the CBI during the period of moratorium u/s 14 of the IBC, 2016. Per Section 14 of the IBC, 2016, during the period of moratorium, the following is prohibited:

(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;



(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security

Interest Act, 2002;

(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

- 5.** The attachment of bank accounts of the Corporate Debtor during the moratorium is prohibited under the Code. Further, the moratorium u/s 33(5) of the IBC, 2016 also bars institution of any suit or proceedings against the Corporate Debtor. To take over the properties of Corporate Debtor, and manage the same, and keep Corporate Debtor a going concern are acts which fall within purview of IBC. IRP/RP/Liquidator under IBC have duty and right to take over and manage assets of Corporate Debtor as long as the assets are property of the Corporate Debtor, so that the other duties conferred on them by the statute are performed.



6. Thus, in light of the above, the present application is allowed. We direct the Respondent No. 2 to de- freeze the Account of the Corporate Debtor bearing no. 510101000603243 and Respondent No. 3 to de-freeze the Account of the Corporate Debtor bearing no 1011612010000005 and allow the operations of the Accounts by the Liquidator of the Corporate Debtor.
7. I.A. 2028/2020 in IB-1756/PB/2018 stands disposed off in terms of above order.

SD/-

(RAHUL BHATNAGAR)
MEMBER (TECHNICAL)

SD/-

(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)