

MA/71/KOB/2020

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH**

MA/71(KOB)/2020

**in
IBA/38/KOB/2019**

(Under Section 19(2) of Insolvency and Bankruptcy Code, 2016

Order delivered on 30th June 2021

Coram:

**Hon'ble Shri Ashok Kumar Borah, Member (Judicial)
Hon'ble Shri Satya Ranjan Prasad, Member (Technical)**

Applicant:

Mr.Vinod Balachandran (Resolution Professional)
In the matter of Sanghvi Movers Limited
Having registered office at 70/1909,
Asoka Road, Kaloor, Kochi-682017.

Vs.

Respondents

1. M/s Albanna Engineering (India) Pvt.Ltd
XIV/305/A4(4) 3E, Noel Focus
Seaport Airport Road, Chettethukara,
CSEZ PO. Kakkanad, Cochin-682037.
2. Mr.Mathew Kavalam, Director
M/s Albanna Engineering (India) Pvt. Limited
Having address at Kavalam House, Erumelikkara
Kanakapalam PO, 686509.
3. M/s Albanna Engineering LLC, PO Box No.737, Dubai
UAE, having project office at Ambalamugal-682302
Represented by its Power of Attorney holder Sreekumar S.
4. M/s Bharat Petroleum Corporation Ltd. Kochi
Refinery represented by its Executive Director,
Kerala-682302, Kerala.

Parties/Counsel present (through video conference)

Counsel for the applicant/RP	: Shri K.B.Arunkumar
For the Operational Creditor	: Shri Shikkil Suri, Advocate
For 3 rd respondent	: Shri Reji George, Advocate
For 4 th respondent	: Shri Pranoy Harilal, Advocate

ORDER

This MA/71/KOB/2020 has been filed under Section 19(2) of the IBC, 2016 by the Resolution Professional in the matter of M/s. Sanghvi Movers Limited praying for the following reliefs: -

- i. Direct the 4th Respondent to transfer an amount of Rs. 5,46,08,871.37/- which was retained by the 4th Respondent pursuant to the order of this Tribunal dated 11.03.2020 in M.A No. 23/2020 in IBA No. 38/2019 to the current account of the Corporate Debtor for the purpose of resolution process,
 - ii. The Applicant may be allowed to serve the copy of this application upon the 3rd Respondent by email.
2. The 3rd Respondent filed an objection to the above MA. The 4th Respondent also filed a reply to the above MA.
3. We have heard the learned counsel for all the parties through video conference. On verification of records, it is seen that there is no direction in the order dated 11.03.2020 in MA/23/KOB/2020 in IBA/38/KOB/2019 to retain the amount as above. The order dated 11.03.2020 is reproduced below:-

“MA 23/2020 is filed by the Resolution Professional to direct M/s Bharath Petroleum Corporation Ltd to transfer an amount of Rs. 5,46,08,871.37 to the current account of the Corporate Debtor for the purpose of resolution

process and also direct them to furnish details regarding the nature of deductions mentioned in Annexure A1 communication dated 19.2.2020. It is stated that the 2nd respondent has not mentioned in Annexure A1 communication the final amount payable to the Albanna Engineering LLC, Dubai, UAE, the holding company. Learned counsel for the Bharath Petroleum Corporation Ltd is also present. He has stated that he has not received a copy of the IA. Learned counsel for RP stated that he will serve a copy to him. Since M/s Albanna Engineering LLC, Dubai, UAE is not a party to this matter, we cannot pass any order against them unless they are impleaded as a party in the case. BPCL is directed to provide the information sought for by the RP and also not to pay any amount to the M/s Albanna Engineering LLC, Dubai, UAE until further orders from this Tribunal. With the above direction MA/23/KOB/2020 is disposed of. RP may file a fresh MA impleading M/s Albanna Engineering LLC, Dubai, UAE as a party, if he so desires”.

4. From the above it clear that there is no direction in that order to retain any amount by the 4th Respondent. The direction was only not to pay any amount to M/s. Albanna Engineering LLC, Dubai, UAE until further orders from this Tribunal. However, there is an order dated 20.04.2020 in MA/25/KOB/2020 directing the 4th Respondent to invoke both the Bank Guarantees immediately provided by the parent company of the Corporate Debtor, i.e., Albanna Engineering LLC, and to keep the proceeds in an interest-bearing fixed deposit with itself in the name and style of “Bharat

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Petroleum Corporation Limited- Account Albanna Engineering” until further orders.

5. Since there is no direction in the order dated 11.03.2020 in MA/23/KOB/2020m to the 4th respondent to retain any amount, and the **prayer in this MA is to direct the 4th respondent to transfer an amount of Rs. 5,46,08,871.37 which was retained by the 4th respondent pursuant to the order of this Tribunal dated 11.3.2020 in MA No. 23/2020 in IBA/38/KOB/2019, this MA cannot be entertained. Hence MA/71/KOB/2020 is dismissed.**

Dated the 30th day of June, 2021

Sd/-
(Satya Ranjan Prasad)
Member (Technical)

Sd/-
(Ashok Kumar Borah)
Member (Judicial)