

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

104.I.A. 2510/2023

I.A. 3984/2022

I.A. 2741/2021

I.A. 2302/2021

I.A. 33/2021

I.A. 2489/2020

I.A. 1489/2020

I.A. 962/2020

I.A. 3875/2023

I.A. 3011/2023

IN

C.P.(IB)-4135(MB)/2018

CORAM: MS. LAKMSMI GURUNG, MEMBER (J)
SH. CHARANJEET SINGH GULATI, MEMBER (T)

ORDER MSEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **12.12.2023**

NAME OF THE PARTIES: USV Pvt. Ltd

V/s.

Lok Housing & Construction Ltd

SECTION 7 OF IBC, 2016

ORDER

HEARING THROUGH: VC AND PHYSICAL (HYBRID) MODE

1. Adv. Harsh Kesharia for the Resolution Professional, Adv Yachika Jain i/b Rahul Hakani Adv for applicant in IA 3011, 3875/2023, Pankaj Uttaradhi for applicant in IA no. 2302/2021 is present.

I.A. 2741/2021

2. None appeared for the Applicant. In the interest of justice, list this application on **22.01.2024**.

I.A. 2302/2021

3. Ld. Counsel for the Respondent submits that reply has been served on the applicant and filed in the registry on 04.02.2022 vide diary no.

1655/2022. However, Ld. Counsel for the applicant submits that he has not received reply.

4. When we checked the proof of service, it is realised that the email has been wrongly typed as sabeenemahadik@gmail.com instead of sabeenamahadik@gmail.com. RP is directed to serve the reply upon the applicant forthwith. List this application on **22.01.2024**.

I.A. 3984/2022

5. None appeared for the Applicant. Ld. Counsel for the RP submits that the reply filed in I.A. 2302/2021 may be adopted as a reply of I.A. 3984/2022 also. He is directed to serve a copy of the reply on the other side in I.A. 3984/2022 as well. List this Application on **22.01.2024**.

I.A. 962/2020

6. The above application has been filed by the Resolution Professional under Section 19(2) of the IBC against the Suspended Directors seeking necessary cooperation. However, prayer clauses are very vague. Some information as per Annexure –A are required whereas Annexure –A has not been annexed. In view of the above, no appropriate directions can not be passed at this stage. RP is directed to be specific what information or documents that are required from the Respondents. RP is also directed to serve a fresh notice on the respondents and file service affidavit clearly intimating the next date of hearing. List this matter on **22.01.2024**.

I.A. 1489/2020

1. RP is directed to issue notice to the Respondent clearly intimating the next date of hearing and file service affidavit along with copy of notice sent to the Respondent, postal receipt, track report, email etc. at least two days before the next date of hearing. List this Application on **22.01.2024**.

I.A. 3011/2023

1. This application has been filed by Suspended Director seeking following prayers:

- (a) Allow the present Application;*
- (b) Terminate the Corporate Insolvency Resolution Process;*
- (c) Replace the Resolution Professional;*
- (d) Direct that the liquidation proceedings shall not commence till the disposal of Civil Appeal No. (Diary No. 342 of 2023) by the Hon'ble Supreme Court;*
- (e) Pending the hearing and final disposal of this Interlocutory Application, the tribunal to permit and grant sufficient time to the Corporate Debtor to negotiate and settle the claims of the Financial Creditors;*
- (f) Pending the hearing and final disposal of this Interlocutory Application the present Corporate Insolvency Resolution Process be stayed;*
- (g) Pending the hearing and final disposal of this Application, the Tribunal to appoint a Forensic Auditor to examine the genuineness of the CIRP cost and expenses of more than Rs. 3 crore billed by the Resolution Professional;*
- (h) Ad-interim relief in terms of prayer clauses (a) to (g);*
- (i) Pass any other order in the interest of justice, equity and good conscience.*

But this was filed before granting of exclusion of the CIRP. This tribunal has granted the exclusion of the CIRP vide order dated 20.11.2023 in I.A. 3628/2023. Therefore, the prayer clause **“b” and “c”** have become **infructuous**.

2. As far as prayer clause **“d”** is concerned, till date the applicant has failed to place any order in Civil Appeal. (Diary No. 342 of 2023) which is not even listed before Hon'ble Supreme Court. Present matter cannot be kept hanging merely because some unnumbered civil appeal has been filed.

3. Accordingly, prayer clause 'd' is **rejected**.

4. As far as prayer clause 'e' is concerned, the same is **rejected** as there is no such provision under the law to issue directions for settlement of claim. The Corporate Debtor and Financial Creditor are free to take steps.
5. Prayer clause 'f' has also becomes **infructuous**.
6. In so far as prayer clause 'g' is concerned, it is the commercial wisdom of the COC and this bench is not inclined to interfere with the functioning the COC. Hence, prayer 'g' is **rejected**.
7. In view of the above order prayer clause 'h' has become infructuous. In the result, the I.A. 3011/2023 is **disposed of**.

I.A. 3875/2023

1. In view of the order passed in I.A. 3011/2023, the I.A. 3875/2023 stands **disposed of**.

I.A. 33/2021 & I.A. 2510/2023

1. Adv. Rahul Hakani appearing for the applicants submits that the suspended directors are in the process of moving an application for withdrawal of the above Applications which shall be filed during the course of the day. The statement is taken on record. List this application **18.12.2023** for withdrawal of the application.

I.A. 2489/2020

We have examined the prayer in the above application which are similar to prayer sought in the I.A. 33/2021.

List this matter on **18.12.2023**.

Sd/-
CHARANJEET SINGH GULATI
Member (Technical)
/RKS/

Sd/-
LAKMSMI GURUNG
Member (Judicial)