

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 118
(IB)-16(PB)/2017

IN THE MATTER OF:

Anil Mahindroo & Anr.
Vs

.... Applicant / petitioner

Earth Iconic Infrastructures Pvt. Ltd.

.... Respondent

SECTION:

Under Section 7 of Insolvency & Bankruptcy Code, 2016, CIRP

Order delivered on 14.12.2018

Coram:

CHIEF JUSTICE (RTD.) M. M. KUMAR
HON'BLE PRESIDENT

SH. S. K. MOHAPATRA
HON'BLE MEMBER (TECHNICAL)

PRESENTS:

For the Petitioner(s):-

Mr. Chandra Shekhar Yadav, Adv.

For the Respondent(s):

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ORDER

CA-1331(PB)/2018

Status report of the fifth meeting of CoC; and fifth and sixth progress report are taken on record subject to all just exceptions. The office is directed to maintain the record and put up the same before the Bench at the time of final disposal.

CA-1331(PB)/2018 stands disposed of.

CA-1319(PB)/2018

This is an application with a prayer to set aside the order dated 08.08.2018 to the extent it strikes the name of the corporate debtor M/s. Earth Iconic Infrastructures Pvt. Ltd. (at serial No. 5983, Annexure-A) from the Register of ROC. As a consequence, thereof, direction sought to the Registrar of Companies to restore the name on its register. For the aforesaid relief the resolution professional has placed reliance on an order dated 12.09.2018 passed in CA-

815(PB)/2018 in C.P. No. (IB)-650(PB)/2018 (titled as Shyam Lal Sachdeva & Ors. Vs. International Recreation & Amusement Ltd.). It is appropriate to mention that the same issue was raised in the aforesaid application and we had issued the following directions to the ROC:-

“..... Having heard the learned counsels for the parties, we are of the considered view that after the CIR Process has been initiated and moratorium has been imposed as per the provisions of Section 14 of the Code, 2016, there was no room left for continuation of any proceedings against the corporate debtor. A perusal of Section 14(1)(a) of the Code, 2016 places the aforesaid proposition beyond any controversy. It is patent from a perusal of the aforesaid provision that inter alia institution of suits or continuation of any pending suits or proceedings against the corporate debtor inter alia are completely barred. Accordingly after the imposition of moratorium as contemplated by Section 14 of the Code, 2016, the proceeding by ROC against the corporate debtor could not be continued which in fact is in direct contravention of Section 14(1)(a) of the Code, 2016. The ROC has expressed his inability to recall the order dated 08.08.2018 for lack of power of review. Therefore, there is no option left with us except to set aside the order dated 08.08.2018 in respect of Item No. 9435 – M/s. International Recreation and Amusement Limited. Accordingly, the corporate debtor shall be brought back on the register of the ROC. The needful shall be done by the ROC within a week and the website of the ROC shall also show the correct status as per this order with regard to the status of corporate debtor. The ROC is directed to file compliance report after done the needful within two weeks. Report may be placed by the bench Officer before this bench in Chamber.

Application stands disposed of.”

In view of the aforesaid directions issued by this bench to the ROC we expect the ROC to act in accordance with those directions.



However, in view of the above we have set aside the order dated 08.08.2018 which pertains to the same notification although to a different company. Accordingly, the notification to the extent of serial No. 5983 in respect of corporate debtor-Earth Iconic Infrastructures Pvt. Ltd. is set aside and direction in terms of the order dated 12.09.2018 are issued to the ROC to bring that company back on the register of the ROC. In other words, the name of the corporate debtor namely Earth Iconic Infrastructure Pvt. Ltd. be restored back on the register of ROC. The needful shall be done by the ROC within a week from the date of receipt of a copy of this order. and the website of the ROC shall also show the correct status as per this order. ROC is directed to file compliance report after doing the needful within two weeks. The report may be placed by the Bench officer before the bench.

CA-1252(PB)/2018

The memo of parties has now been filed and the same is taken on record.

Notice of the application to the non applicant-respondent.

Process dasti.

List on 18.01.2019.

Sd/-

(M.M.KUMAR)
PRESIDENT

Sd/-

(S. K. MOHAPATRA)
MEMBER (TECHNICAL)