## NATIONAL COMPANY LAW TRIBUNAL GUWAHATI BENCH GUWAHATI

IA No.14 of 2021 IN C.P. (IB)No.09/GB/2019

Coram:

Hon'ble Shri H. V. Subba Rao, Member (J): Hearing through Hon'ble Shri Prasanta Kumar Mohanty, Member (T): Video Conference

## ATTENDANCE-CUM- ORDER SHEET OF THE HEARING OF GUWAHATI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 12.08.2021

Name of the Company:	M/s. Dilip Construction Pvt. Ltd. V/s
	Stressed Assets Stabilization Fund (SASF) And
	Sandeep Khaitan, RP

Section of the Companies Act: Under Section 60(5) of IBC, 2016

<u>S. NO</u> .	NAME (CAPITAL LETTERS	) DESIGNATION	<b>REPRESENTATION</b>	<b>SIGNATURE</b>
1.	MR. ABHIJIT SARMAR	Advocate	Petitioner	Present in
2.	MR. M. DUTTA	Advocate	Respondents	Video
3.	MR. RITIN ROY	Advocate	Respondents	Conference

## <u>O R D E R</u> Date of Order: 12.08.2021

The matter is taken up for hearing through Video Conferencing. Heard the Learned Counsels appearing for the Petitioner as well as for the Respondents. This Petition has been filed with a prayer to direct the CoC to treat the Petitioner as FC and reinstate the claim. On the other hand, Mr. Ritin Roy, learned Counsel appearing for Stressed Assets Stabilization Fund (SASF) is present. The contention of the CoC was that the Petitioner was not considered as FC in the absence of interest clause in the advance made to the CD. During course of hearing, clarification was sought from the Respondents relating to classification of the Petitioner. Recently, the Hon'ble Supreme Court has passed an Order on 26.07.2021 in the case of Civil Appeal

No.2231 of 2021 – M/s. ORATOR MARKETING PVT. LTD. Vs. SAMTEX DESINZ PVT. LTD. holding that "The definition of Financial Debt: in Section 5 (8) of the IBC does not expressly exclude an interest free loan. Financial Debt would have to construe to include interest free loans advanced to finance the business operations of a Corporate Body".

The learned Counsel appearing for the CoC has prayed 7 days' time to file reply in the matter. 7 days' time is granted.

## 2. List the matter on 23.08.2021.

Sd/-(Prasanta Kumar Mohanty) Member (Technical) & Adjudicating Authority /Deka-12.08.2021/ Sd/-(H. V. Subba Rao) Member (Judicial) & Adjudicating Authority