

National Company Law Tribunal

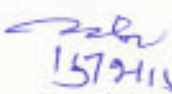








Allahabad Bench

CP NO.49/2016

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF ALLAHABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 15.02.2017

NAME OF THE COMPANY: JAI PRAKASH ASSOCIATE LTD&ORS

SECTION OF THE COMPANIES ACT: U/S 391 to 394 of Companies Act, 1956

Sl. NO.	Name	Designation	Representation	Signature
1.	M.K. Bagchi	OL And	AD CNRS	
2.	NITIN SHARMA	ADV	objection CLEARWATER	
3)	Ravi KAUSHIK	Counsel	objection Goldman Sachs	
4)	PRIVANKA MIDHA	"	"	
5)	MOHO KAMRAN	"	"	
6)	SAMEER BINDRA	ADV.	objection CLEARWATER	
7.	R.P. AGARWAL	Adv	Petitioners	
8)	MANOJ GAN	C'NAM	Petitioners	
9)	HARISH K. VAID	Sr. Counsel (Cp)	Petition- II AR for Pet. II	

Order dated 15.02.2017

CP No.49/2016 Jai Prakash Associate Ltd & Ors

Parties are represented by their respective counsel. Learned counsel representing Goldman Saches International files a supporting affidavit of Mr. Som Krishna (being authorised signatory on behalf of the company) and ^{of} Shri Sanket Chappia, on behalf of M/s Clearwater Capital Partners Emerging Markets L.P. ^{and} Clearwater Capital Partners Pacific IV, Ltd being constituted attorney of applicant's power of Attorney Holder of the Clearwater Partner's Company. Hence, supporting affidavit/document relating to withdrawal of objection are taken on record. Therefore the memo for withdrawal their objection to the proposed scheme is allowed.

The attention on the affidavit of the Regional Director is also invited to the Ld. OL as well as of petitioner counsel with respect to the some documents annexed therewith specifically some remarks made in the report made by the ROC, Kanpur in column No. 23 and 25 of his report which forms part (at page 20) of the affidavit wherein (the column 25). It is intimated that Ministry of Corporate Affairs has ordered for an inspection of transferor company the details thereof are presently available with the office of the Regional Director, NR, New Delhi that apart some complaints from the investors are received in the portal of the MCA, about non-payment of FDs on maturity. A careful reading of the affidavit of the Regional Director gives such impression that his affidavit appears to be silent in respect of the remark given by the ROC in column 25 of his report about that some inspection being carried by the Govt. Further, as to whether such is having direct or indirect impact on sanction of the proposed scheme which may affect the inspection process as well as the interest of the public at large. As the office of the RD is stated to be custodian of the relevant record of the such inspection being made by the Govt. it would be appropriate for him to file a supplementary affidavit clarifying its official position on the remark of ROC by enclosing relevant document relating to status of inspection being done by the Central Government. The attention of the office of the RD is further drawn at page 31 of his affidavit which is an enclosure relied upon by him i.e. letter dated October 28th, 2016 issued by the ICICI Bank conveying lender's bank consent to pay to holders of fixed deposit and by intimating such that a provision of Rs. 14.65 billion has been made towards redemption of outstanding. On a query being raised by this Bench the petitioner company now furnishes relevant material relating to issue such letter on behalf of the consortium of lender's bank. The Ld. Counsel for petitioner duly submits that a copy of the minutes of meeting of joint lenders/bankers forum of Jai Prakash Associates Ltd. & JP Cement Corporation Ltd. is enclosed.

Therefore, the petitioner is advised to provide a copy of this minutes/documents to the office of the RD through OL unless it has some

reservation or may claim privilege being internal document if its affects fiduciary relation with the Bank Central Govt, through RD to submit his opinion/comment on the same while finalising supplementary affidavit. The petitioner company was earlier directed to issue a fresh notice to the Income Tax Department and furnished proof of service. However, today there is no representation from the Income Tax Department. Therefore, it is presumed that the Income Tax Department is having no serious objection to the proposed scheme. List for further hearing on 20.02.2017(Afternoon). A copy of this order be communicated to the Regional Director, (NR) through office of Official Liquidator. An authentic copy may be provided by the Registry to the party concerned.


SH. H.P. CHATURVEDI (Judicial Member)

Dated 15.02.2017