

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
NEW DELHI

C. P. NO. 124(ND)2016
CA. NO.

PRESENT: SMT. INA MALHOTRA
Hon'ble Member (J)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NEW DELHI BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 07.09.2016**

NAME OF THE COMPANY: M/s. Unitech Ltd.

SECTION OF THE COMPANIES ACT: 73(4)

S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
1	Vijay Bahadur Pandey	Defender	do	[Signature]
2	Rebina Pandey	do	do	[Signature]
3	V. B. Pandey (HUF)	do	do	[Signature]
4	Sudeshan Vohra	do	do	[Signature]
5	Nadkubala Qureshi	do	do	[Signature]
6	Vijai Prakash Qureshi	do	do	[Signature]
7	Robin Gupta	General Manager	Mehar Baba Charitable Trust	[Signature]
8	Kiran Khanna	Investor (mob: 9818894373)	Khanna	[Signature]
9	Major S. Khanna			
10	Sanjay Bhatia			
11	Rishi Bhatia	Investor (mob: 9818894373)	Khanna	[Signature]
12	Asheesh Kapoor			
13	Sarla Gupta	Investor	do	[Signature]
14	Sudesh Kumar	Investor	do	[Signature]
15	SURENDER KUMAR	Investor	do	[Signature]
16	Sunil Kumar	Investor	do	[Signature]
16	S. BALASUBRAMA - NIYAM	Investor	do	[Signature]

(98102 99944)

17. Sunil Sandhu Investor

18. Anika Kunnan Gupta

19. Manpreet Singh Kohli of Jaspreet Singh Kohli

20. Renu Gupta 9810204588 80000

21. MANJU BANSAL

— Moh 8826290812 Mrs

22. ANEES AHMAD Investor self 9810148332

23. SURESH KUMAR

24. S.S. PLANI

Investor self

9289979190

9910964411

25. Anju Plani

— do — self

9958796939

26. Dhruv Kapoor

Representy Mr M L Panwar
(Investor) as he lives in
Mumbai and not well.

9899724000

27. Gurdheep Singh

FD Invest

9311327226

28. ANIL KUMAR SHARMA

Investor self

9560753353

29. Mr Sumita Comar

Fixed Deposit

9810096032

30. R. L. Pandey.

FD Invest

9873060768

31. SACHIN KUMAR

FD Investor

9416173917 S. Kumar

32. POONAM

FD Investor

9896906102 Poonam

33. RAJNI DADA

FD Investor

9416173917 Rajni

34. Raksha J. Jan

FD "

35. Neelam Jan

" "

9818600944

36. Ardi Jan

" "

37. Nisha Jan

" "

38. Soumika Chatterjee.

Adv. for Pet. in.
C.P. No. 1192/16.

9999242523

39. Mayank Pand.

CA. of Petl.
C.P. No. 191/2016

9427618459

40 Mr. Sanjeev Sindhwani Sn. Adv.

41 Mr. Sawabh Kalia

42 Mr. Gaurav Jain

43 Ms. Aishwarya Mishra

} Adus

Respondent
Company Amishra

A. K. Sahoo - Deputy ROC
NCT Delhi & Haryana.

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07/09/16

Dinesh Chandra Gupta (HVF)

- Detention Vikram 9650996
7.9.16 780

VIKRAM SALHOTRA FD INVESTOR

981159924 Vikram

S.K. SALHOTRA FD INVESTOR
(Sb. Gtizen)

" Vikram

SHAKUNTALA SALHOTRA FD INVESTOR

" Vikram

ORDER

Ld. Senior Counsel appearing on behalf of the respondent submits that his application on maintainability be disposed off before adjudicating on the merits of the main petition. Arguments addressed today on this point be filed by way of a short synopsis.


2. Mr. Ashok Sachdeva, Id. Counsel appearing for majority of the applicants prays for some time to file his reply. Let the same be filed with an advance copy to the respondent's counsel.

3. Vide order dated 22.08.2016, the respondents were granted extended time to file the details of the assets of their subsidiary companies, Joint Ventures and Associates, numbering approx.220 by today. It is submitted that the same shall be filed during the course of the day. Let copies be provided to Mr. Ashok Sachdeva Advocate, since he is representing the majority of the depositors.

4. Despite specific directions, the respondents have still not placed on record the photocopies of the 6 properties which they have tendered before this Bench as security, solely for liquidating the liability outstanding towards the present depositors. The respondent submits that they need 10 days more time to have them photocopied as they are very voluminous. In addition the respondents shall furnish the details of each parcel of land by way of a separate statement.

5. It was made abundantly clear, and has been reiterated time and again, that none of these 6 properties would be sold without prior permission of this Bench and also that the sale proceeds shall be deposited in a separate account. The account details and its bank statement have still not been furnished before this Bench. The respondents are directed to ensure compliance in this respect before the next date of hearing. It was specifically directed that the respondents shall have a separate Bank account in which

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sale proceeds of the six properties shall be deposited only for this purpose, notwithstanding the fact that directions may be given to them to liquidate their liabilities by other courts, since they have undertaken before this Bench that these properties have not been offered as security in any other court and are totally unencumbered. The aforesaid directions are in addition to and without prejudice to the rights of the petitioners to take recourse to other steps for recovery of their dues and/or prosecute the defaulting respondents for nonpayment of the proceeds under their Fixed Deposits and the interest accruing thereon. Mere tendering of such documents, till implemented for paying off the depositors, is an eyewash and it shall not be open to the respondents to take refuge under this direction to escape any action or prosecution initiated against them as contemplated under law.

6. This Bench is conscious of the fact that the respondents have offered mere sops of properties which are probably overvalued or which are not saleable. This is done in view of their submissions that all their other assets are encumbered and are under a prior charge. Since there is no other asset which can be liquidated to pay the depositors, the present endeavor is to salvage and secure whatever best is offered. These properties were offered even in the petition filed by the respondents under sec 74(2) which has since been dismissed by the Id. Predecessor of this Bench. It was submitted in the said proceedings i.e more than a year ago, that the respondents were in the process of negotiating the sale of one of the properties, which till date has not materialized.


7. The agitated depositors have alleged that the Company still has assets which are unencumbered and are receiving huge rents from some properties. It is their submission that these should be seized and the bank accounts having funds should be frozen till the present liabilities are met. Some of the depositors have alleged that they are aware of other assets of the Directors and their family members, purchased from



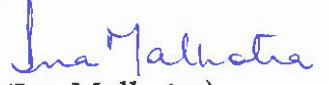
diverting the public money entrusted to the Respondent Company. The respondents have already filed their balance sheets and list of assets of the company, their directors and family members as well as those of their subsidiaries /joint ventures / associates. It would be open to any investor to inspect the Balance Sheets and Statement of Assets and Accounts and move an appropriate application, duly supported by an affidavit, for attachment of any unencumbered asset of the respondents that can be detected, declared or otherwise, and the same can be duly probed into by the appropriate authorities.

8. Mr. A.K.Sahoo representing the RoC is present in court. He has apprised this Bench about the steps taken pursuant to the dismissal of the respondent's petition u/s 74(2) of the Indian Companies Act. Interim report be given fortnightly in respect of the action taken, as till now it is observed that inexplicably a very tardy approach has been taken in this case, smacking of total apathy in respect of the aggrieved and distraught depositors, many of them in the sunset years of their lives.

9. A perusal of the balance sheets also reflected that huge amounts had been periodically transferred by the respondents to their subsidiary companies / associates/JVs, and have been written off by the Respondents. No cogent explanation has come forth to satisfy this Bench as to why these have been written off. It is a matter of grave concern if monies have been transferred to delay or defeat the claim of the public. But investigation in this respect is beyond the scope of this Bench. Therefore, notwithstanding the ultimate fate of these petitions, this Bench deems it fit and proper to direct the Ministry of Corporate Affairs through the office of the Regional Director to look into this aspect. Specific directions in this respect shall be given at the appropriate stage.



10. To come up on 22.09.2016 for arguments on the Respondent's application on maintainability and for final disposal


(Ina Malhotra)
Member Judicial