IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 1389 of 2017

IN THE MATTER OF:
An application under Article 226 of the Constitution of India:

AND

Ajay Kumar Das & Ors.

Petitioners

Versus

Union of India & Ors.

Respondents

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Devendra Singh

DEPONENT

Advocate

Date: 26.06.2025
Place: Noida

(1)

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AFFIDAVIT ON BEHALF OF RESPONDENT NO.27

I Devendra Singh, son of Late Sh. Daryao Singh, aged about 60 years, by religion Hindu, occupation Resolution Professional of Respondent No.27 having office at Assotech Business Cresterra, Office No.216, 2nd Floor, Tower-1 Regn. No. IBBI/IPA-002/IP-N00001 /2016-17 / 10001, do hereby solemnly affirm and say as follows:-

Presently at Delhi

1. That I had been appointed by the Hon'ble National Company law Tribunal New Delhi (NCLT), as Resolution Professional of the Respondent No.27 vide order dated 24.11.2020. Copy of order dated 24.11.2020 is annexed herewith and marked as **Annexure A.**

2. That Respondent No.27 is undergoing Corporate Insolvency Resolution Process (CIRP) under the Insolvency & Bankruptcy Code, 2016 (IBC) w.e.f. 25th January, 2019, as per orders of the Hon'ble National Company Law Tribunal (NCLT), Principal Bench, New Delhi passed in the matter of 'Kiran

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Malhotra V / s Alchemist Township India Ltd.' bearing No. (IB)-1082 (PB)/2018.An application was filed under section 7 of the Insolvency and Bankruptcy Code, 2016 read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016 on 07.08.2018 by Ms. Kiran Malhotra as the financial creditor with the prayer to commence the Corporate Insolvency Resolution Process against the corporate debtor i.e. Respondent No. 27 Alchemist township India Ltd.

3. That application bearing No. (IB)-1082 (PB)/2018 seeking initiation of corporate insolvency resolution process was admitted by Hon'ble National Company Law Tribunal, Principal Bench, New Delhi vide order-dated 25.01.2019 and Mr. Pramod Goel was appointed as the Interim Resolution Professional.

4. That one shareholder of the applicant company filed an appeal before the Hon'ble National Company Law Appellate Tribunal, New Delhi vide Company Appeal (AT) (Insolvency) No. 113 of 2019 against the admission order of Hon'ble NCLT, stating that the Corporate Debtor was willing to settle the matter with the respondent. Thereafter the Hon'ble Appellate Tribunal gave directions to Interim Resolution Professional (IRP) not to constitute a committee of creditors until further orders. In the subsequent hearing held on 01.03.2019, Hon'ble NCLAT, New Delhi set aside the order of the NCLT dated 25th of January 2019.

5. That thereafter an application-bearing no. IA-4063 (PB)/2020 was filed by the financial creditor for the revival of CP(IB) 1082(PB)/2018 based on the order dated 01.03.2019 passed by the Hon'ble Appellate Tribunal as the settlement had failed. On 01.10.2020, the Hon'ble NCLT, Principal Bench, New Delhi

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allowed the application for revival of the original application and directed the IRP to resume his duties and continue until he is replaced by another insolvency professional. Accordingly, the erstwhile IRP, on 09.10.2020, made general public announcements in the Financial Express, Jansatta in Delhi NCR and Chandigarh Editions and Daily Chardikala (Punjab) in Patiala on 12.10.2020 regarding revival of the petition.

6. The erstwhile IRP accordingly constituted the CoC and filed the report dated 15.10.2020 under Regulation 13 & 17 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016 before the Hon'ble NCLT Principal Bench, New Delhi.

7. That the committee of creditors in its first meeting held on 23.10.2020 approved the resolution for appointment of the Deponent as a resolution professional in the matter. Vide order-dated 24.11.2020, the Hon'ble NCLT Principal Bench, New Delhi appointed the Deponent as the Resolution Professional.

8. That the Resolution Professional published the general public announcement on 10.12.2020 in business standard, Hindi and English in all India edition intimating the public at large about the revival of CIRP against the corporate debtor i.e. the Respondent No.27 herein.

9. In the interregnum this Hon'ble Court vide order dated 16.09.2021 passed in W.P.A. 1389 of 2017, was pleased to direct as under:-

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'Learned counsel of the Alchemist Group of Companies seeks time to file supplementary affidavit.

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Let the same be filed. In addition to whatever information is sought to be furnished in the affidavit, information regarding details of the properties owned by the Alchemist Group of Companies along with its approximate value be furnished. If any proceedings are pending before any authority, the details thereof be also mentioned.

The amount to be refunded by the Alchemist Group of Companies to the depositors under various schemes as on August 31, 2021 be detailed out. The learned counsel appearing for the SEBI shall apprise this Court as to whether any proceedings against the Alchemist Group of Companies are pending. If yes, the status thereof, and also as to whether any amount is to be recovered by SEBI on account of penalty or otherwise from the .t1lchemist Group of Companies

It was further pointed out that at the time of hearing, that some of the investors have approached the National Company Law Tribunal (NCLT). To this serious issue was raised by the learned counsel for the petitioner stating that when all the issues regarding refund of the amount deposited with the Alchemist Group of Companies, is being considered by this Court, certain depositors have been planted to file application before the NCLT with the active support of the company to misdirect the issue.

We are not finally opining on this issue. However, we direct that no final order shall be passed by the NCLT during the pendency of the present writ petition before this Court.

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A bunch of CAN applications have been filed in WPA 1389 of 2017 for being impleaded as parties, claiming that the applicants are also depositors with the Alchemist Group of Companies under various schemes. In our opinion when the issue regarding refund of the money to all the depositors of the Alchemist Group of Companies is being considered in the main petition, the individual depositors are not required to be impleaded as parties to the proceedings. In case they have any grievance or any issue to be pointed out, they shall be at liberty to assist the Court in the pending matters.

The writ petitions being WPA 1389 of 2017, WPA 20070 of 2018 (CAN 106 of 2019) and WPA 26915 of 2017 are adjourned to November 23, 2021. The connected applications in WPA 1389 of 2017 except the application being CAN 5390 of 2018 are disposed of'

10. I say that the said order of this Hon'ble Court was produced before the Ld. NCLT. In the interregnum the Deponent continued with the Corporate Insolvency Resolution Process (CIRP) of Respondent No.27 in terms of the provision of the Insolvency and Bankruptcy Code, 2016 (IBC) as the same is a time bound process which focuses on the revival and rehabilitation of the Company in distress with an aim to allow its creditors to recover their money due from the Company under a Resolution Plan submitted by Resolution Applicant.

11. That the Resolution Professional of the respondent No.27 has since received claims from a number of persons who claimed to have deposited money with the company. Summary of details thereof are reported to Hon'ble NCLT by

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way of regular Progress Reports. As per detail therein, the following is summary of claims received and provisionally admitted:-

Total (Claimants)	*8,87,155*
Total Amount admitted	*Rs. 41,76,14,82,911.*

12. I say that it will be apposite to mention herein that after admission of the respondent No.27 into CIRP under IBC by the Hon'ble NCLT, the said process supersedes all other recovery processes.

13. I say that in view of the same the Deponent had filed an application bearing CAN No. 688/2022 on 03.03.2022 seeking modification/clarification of the order dated 16.09.2021 which is pending adjudication before this Hon'ble Court. The Deponent submits that after filing of the said application the Ld. NCLT has been adjourning the case and the same is causing grave and severe prejudice to the Depositors who had filed their claims and are waiting for their refund. Also, RP filed an affidavit on 25.09.2023 regarding modification/clarification in Order dated 16.09.2021 passed by Hon'ble Calcutta High Court.

14. I say that during the 20th CoC meeting, Resolution Professional received a Resolution Plan from one of the Prospective Resolution Applicant i.e. Vantage Point Asset Management Pte. Ltd. The Resolution Professional placed the fully compliant Resolution Plan in terms of Section 30(3) of IBC, 2016 read with relevant CIRP Regulations before the CoC in the instant meeting alongwith the compliances status report. The said Resolution Plan was placed before the CoC for approval, wherein the CoC with 100% voting share approved the same. A copy of minutes of 20th CoC meeting alongwith Summary Record are annexed herewith and marked as **Annexure B.**

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15. I say that upon the approval of the Resolution Plan, more than 10 lakh small depositors/investors will be benefited. In such circumstances, this Hon'ble Court should allow the application seeking modification of order dated 16.09.2021 filed by the Deponent. It is pertinent to say that once the Ld. NCLT is allowed to consider the Resolution Plan approved by the CoC, all the stakeholders -who have been waiting for their money for 8 long years will be benefited.

16. I say that the Deponent is filing the instant affidavit to bring on record the fact about the approval of Resolution Plan by the CoC which consists of more than 8.87 lakh depositors who are on favour of the Insolvency Process and participated in the same.

17. I say that the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "IBC") was published in the Gazette of India on 28.5.2016. It was framed as a complete code to consolidate and amend the laws relating to insolvency resolution of corporate entities, partnership firms, and individuals in a time-bound manner, for maximization value of the assets of such persons and balance the interest of all stakeholders. The Corporate Insolvency Resolution Process ("CIRP") could be initiated when a corporate debtor commits a default, either by a financial creditor, or an operational creditor, or the corporate debtor itself. Section 12 IBC provides a time-frame to complete the CIRP. As per Section 13 IBC, the adjudicating authority i.e. the National Company Law Tribunal (NCLT) shall declare a moratorium for the purposes ref erred to in Section 14 IBC.

18. That as per section 14 of the Code, on the insolvency commencement date, the adjudicating authority shall by order, declare a moratorium prohibiting the institution of suits, or continuation of pending suits or "proceedings"

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against the corporate debtor, including execution of any judgment, decree, or order in any court of law, tribunal, arbitration panel, or any other authority. It is further submitted that the Insolvency & Bankruptcy Code, 2016 is a collective mechanism for maximizing the value of assets of a corporate debtor for the benefit of the creditors and all other stakeholders. Hence, it provides a moratorium protection or 'calm period' against individual or collective legal actions against the corporate debtor during the insolvency process. The Insolvency & Bankruptcy Code, 2016 offers a market-directed, time-bound mechanism to resolve insolvency, wherever possible, or exit, where required.

19. I say that section 238 of the IBC Code gives an overriding effect to the IBC over all other laws. The provisions of the IBC vest exclusive jurisdiction on National Company Law Tribunal and National Company Law Appellate Tribunal to deal with all issues pertaining to the insolvency process of a corporate debtor, and the mode and manner of disposal of its assets. The said section is reproduced herein for the kind and ready reference of this Hon'ble Court:

> *'238. Provisions of this Code to override other laws.-*
> *The provisions of this Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law."*

Thus, it is submitted that once the legislature has given IBC an overriding effect of other the present writ petition should also be disposed off and a way for the IBC proceeding should be carved which is in the best interest of the stakeholders as well as the Respondent No.27 Company.

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20. I say that all the contents of the Affidavit are true and correct and the same are based on the documents available. Nothing has been concealed from this Hon'ble Court. The instant affidavit should be taken on record.

PRAYER:

A. In the Order dated 16.09.2021 passed by Hon'ble Calcutta High Court prayed to be Expunge i.e.

> *" We are not finally opining on this issue. However, we direct that no final order shall be passed by the NCLT during the pendency of the present writ petition before this Court"*

B. The present writ petition be kept in abeyance qua the present applicant i.e. Respondent No. 27 i.e. M/s Alchemist Township India Limited during the pendency of the Corporate Insolvency Resolution Process.

Prepared in my office

Advocate **Deponent is known to me**

Solemnly affirmed before me
On this 26TH day of June, 2025

BEFORE ME
VIMAL SINHA
NOTARY DELHI-IX-43005
GOVERNMENT OF INDIA
SUPREME COURT OF INDIA
COMPOUND, NEW DELHI
REGISTRATION NO.
MOBILE NO.: 92137787

Presently at Delhi **Commissioner**

I certify that all annexures are legible

Advoc

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