IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

C A N OF 2022
W.P.A. 1389 of 2017

An application for modification and/or variation of the order dated 16th September, 2021

And

In the matter of:
An application under Article 226 of the Constitution of India;

And

In the matter of :
An application under Public Interest Litigation;

And

In the matter of :
A writ in the nature of Mandamus and/or in the nature of Certiorari and/or any other appropriate Writ or



Writs, Order or Orders and/or Direction or Directions;

And

In the matter of :
Viuolationof the Public Act, 1861;

And

In the matter of :
Reserve Bank of India Act, 1934 and the Rules and Circulars made and as amended up to date;

And

In the matter of :
THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 as amended by the Securities Laws (Amendment) Act, 2014;

And

In the matter of :
Companies Act, 1956 and the Companies (Acceptance of Deposits) Rules, 1975 made thereunder as amended up to date;

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And

In the matter of :
The Chit Fund Act, 1982 as amended up to date;

And

In the matter of :
Prevention of Money Laundering Act, 2002 and as amended up to date;

And

In the matter of :
The Commissions of Inquiry (Central) Rules, 1972 and as amended up to date;

And

In the matter of :
Violation of the provisions of Section 22 of the Banking Regulations Act, 1949 to carry business of banking in accepting repayable deposits from public;

And



In the matter of :

Fraud on public surfacing in the act and conduct of the key players of the said Group of Companies from sudden closure of its business leaving the companies high and dry;

And

In the matter of :

Inaction on the part of the respondent authorities to bring the perpetrators of Alchemist Group of Companies to regulatory focus, sooner before tones of money could be vanished;

And

In the matter of :

Inaction on the part of the respondent authorities to unearth the nuts and bolts in the Ponzy wheel operated in the name of Alchemist Group of Companies and to ensure confiscation of the massive money and/or the disguised assets and properties derived therefrom constituting proceeds of c rime and refund thereof to the depositors;

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And

In the matter of :
Inaction on the part of the Central and State Executives and Police and the Central Investigating Agencies to undertake investigation of the conspiracy hatched by the key players of Alchemist Group of Companies to defraud the countless depositors across the country in accumulating tones of money and Cheating them;

And

Failure on the part of the Central and State Government to protect the legal and fundamental rights of the petitioners against fraud committed in the name of Alchemist Group of Companies;

And

In the matter of :
Alleged inaction on the part of the Investigating Agency to investigate the Ponzi scheme run by the Alchemist Group of Companies and its directors including Alchemist Holdings Ltd.,

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Alchemist Capital Ltd., Toubro Holdings Ltd., Alchemist Infra Realty Ltd., Toubro Infotech & Industries & Industries Ltd., Toubro Industries Ltd., Alchemist Ltd. (Infotech Division, Food Processing Division, Flower Division, Steel Division, Biotech Division) and Alchemist Township India Ltd.;

And

In the matter of :

1. Ajoy Kumar Das, son of Late Ajit Kumar Das, being the President of Association of Investors in Alchemist Group of Companies, residing at 1/18, Mahajati Nagar, Post Office – Agarpara, Police Station – Khardah, District - North 24 Parganas, Pin – 700109.

2. Bimal Ranjan Das, son of Late Sudhir Ranjan Das, residing at Aswini Dutta Road, Post Office- Panihati, Police Station – Khardah, District - North 24 Parganas, Pin – 700114.

3. Association of Investors in Alchemist Group of Companies, Central Committee, having its office at 1/34, Mahajati Nagar (Madhyapally),

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Post Office – Agarpara, Police Station – Khardah, Kolkata– 700109, represented by its President Mr. Ajoy Kumar Das

.... Petitioners

-:VERSUS:-

1. Union of India, through the Secretary, Government of India, Ministry of Finance, North Block, New Delhi-110001, service through the Senior Central Government Advocate, Calcutta Branch Secretariat, Ministry of Law and Justice, 11, Strand Road, Kolkata – 700001.

2. Union of India, through the Secretary, Government of India, Ministry of corporate Affairs "A" Wing, Shastri Bhawan, Rajendra Prasad Road, New Delhi-110001, service through the Regional Director, Eastern Region, Nizam Palace-II, MSO Building, 3rd Floor, 243/4, A. J. C. Bose Road, Kolkata – 700020.

3. The Securities and Exchanges Board of India, Plot No. C4-A, "G" Block, Bandra Kurla Complex, Bandra

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(East) Mumbai-400051, service through the Regional Manager, L&T Chambers, 3rd Floor, 16, Camac Street, Kolkata – 700017.

4. The State of West Bengal, service through The Chief Secretary, Government of West Bengal, Nabanna, 325, Sarat Chatterjee Road, Howrah-711102.

5. The Principal Secretary, Ministry of Finance, Government of West Bengal, Nabanna, 325, Sarat Chatterjee Road, Howrah-711102.

6. The Additional Secretary, Finance Department & Inspector General of Stamp Revenue, West Bengal, Writers' Buildings, F-Block, Top Floor, Kolkata-700001.

7. The Regional Special Director, Enforcement Directorate, Eastern Region, Kolkata CGO Complex, 3rd M.S.O. Building, 6th Floor, C & D Wing, DF Block, Salt Lake, Sector-I, Kolkata – 700064.



8. The Director General of Police, West Bengal, Bhabani Bhavan, Alipore, Kolkata-700027.

9. The Inspector General of C.I.D., West Bengal, Bhabani Bhavan, Alipore, Kolkata-700027.

10. The Police Commissioner, Kolkata Police, Kolkata Police Head Quarters, 18, Lalbazar Street, Kolkata-700001, West Bengal, India.

11. The Superintendent of Police (CBI, Kolkata Zone & Special Investigation Team), MSO Building, 2nd Floor A Wing, DF Block, Salt Lake, Kolkata – 700064.

12. The Officer in Charge, Special Investigation Team, Detective Department, DD Building, 3rd Floor, 18, Lalbazar Street, Kolkata – 700001.

13. The Officer in Charge, Khardah Police Station, Khardah, District - North 24 Parganas, Pin – 700116.



14. The Officer in Charge, Belgachia Police Station, Belgachia, District - North 24 Parganas, Pin – 700056.

15. Alchemist Holdings Ltd., having its office at 405, Jyotisikhar Tower, Janakpuri, District Centre, New Delhi-110058.

16. Alchemist Capital Ltd., having office at SCO 12-13, Sector-9D, Madhyamarg, Chandigarh -160017.

17. Toubro Holdings Ltd., having its office at SCO 12-13, Sector-9D, Madhyamarg, Chandigarh -160017.

18. Alchemist Infra Realty Ltd., having its office at 723, DLF Tower 'A', Jasola, District Centre, New Delhi-110044 and also at Unit No. GF-18, Ground Floor, Omax Square, Jasola, District Centre, New Delhi – 110025.

19. Toubro Infotech & Industries & Industries Ltd., having its office at SCO 12-13, Sectror-9D, Madhyamarg, Chandigarh- 160017.

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20. Toubro Industries Ltd., having its office at SCO 12-13, Sectror-9D, Madhyamarg, Chandigarh-160017.

21. Alchemist Ltd.,

22. Infotech Division,

23. Food Processing Division,

24. Flower Division,

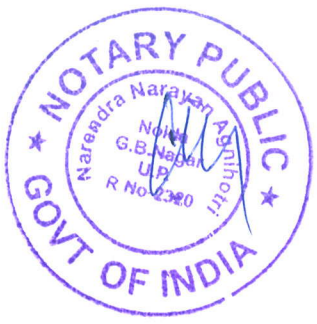
25. Steel Division,

26. Biotech Division

Nos. 21 to 26 having its office at SCO 12-13, Sectror-9D, Madhyamarg, Chandigarh- 160017.

27. Alchemist Township India Ltd., having its office at SCO 232-233, 3rd floor, Sectror-334, Chandigarh-160022, and corporate office at 411-412, Ansal Tower, 38, Nehru Place, New Delhi-110019.

28. Mr. Kanwar Deep Singh, Chairman Emeritus, Alchemist Group



of Companies, permanently residing at House No. 159, Sector- 9B, Chandigarh, presently residing at 100, South Avenue, New Selhi-110011.

29. Mr. Karan Deep Singh, Chairman, Alchemist Group of Companies, residing at House No. 159, Sector-9B, Chandigarh.

30. Mr. Pavan Kumar Verma, Director.

31. Ms. Maria Fernandes, Director.

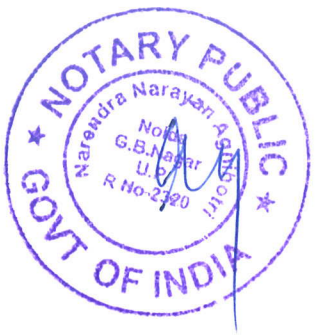
32. Mr. Bikram Bhattacharyya, Director.

33. Mr. Vinoy Kumar Mittal, Director.

34. Mr. Vimal Kumar Mittal, Director.

35. Mr. Tanveer Gill, Director.

Nos. 30 to 35 having their office at H.O. SCO 12-13, Sector 9D, Madhyamarg Chandigarh-160017.



36. Mr. Mansoor Ahmed, Director,

37. Mr. Hariharan Neraraghavan, Director.

38. Mr. Subramanian Ayyappakutti Nambi, District.

39. Sangita Devi, Director.

40. Balbir Singh, Director.

41. Mr. Vikramaditya Singh, Director.

42. Mr/ Chandra Shekhar Chauhan, Director.

43. Mr. Krishna Kumar Singh, Director.

44. Ms. Jaishree Noor, Director.

Nos. 41 to 44 having their office at SCO 232-233, 3rd Floor, Sector-344, Chandigarh-160022 and corporate Office at 411-412, Ansal Tower, 38, Nehru Place, New Delhi-110019.



45. Mr. Brijmohan Mahajan, Director, residing at House No. 194, Sector-18A, Chandigarh-160018.

46. Mr. Sunil Kanti Kar, Director, residing at 14, Southend Park Lane, Kolkata-700029.

47. Mr. Narayan Madhav Kumar, Director, House No. 2047, Sector-44C, Chandigarh-160044.

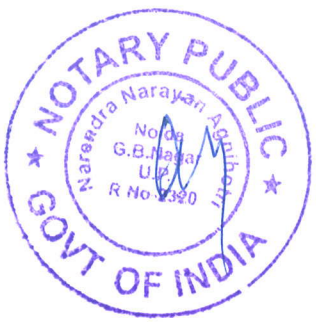
48. Mr. Chhatrasalsingh Narendrasingh Ranawat, Director.

49. Mr. Nand Kishore Singh, Director.

50. Mr. Krishna Kabir, Director.

51. Mr. Surendra Singh Malik, Director.

52. Mr. Sushil Kumar, Director.



Nos. 48 to 52, having their office at 723, DLF Tower 'A' Jasola, District Centre, New Delhi-110044 and also at Unit No. GF-18, Ground Floor, Omax

Square, Jasola, District Centre, New Delhi-110025.

53. Mr. Satender Singh Jarri, Director.

54. Mr. Ajay Kumar, Director.

55. Mr. Vijay Kumar, Director.

56. Mr. Charan Deep Jolly, Director..

Nos. 53 to 56 having their office at H. M. Building, 4th Floor, 15, Genesh Chandra Avenue, Kolkata-700013.

... Respondents

The humble application on behalf of Alchemist Township India Ltd., the respondent No. 27 abovenamed most respectfully

SHEWETH:

. That the present writ petition is pending adjudication before this Hon'ble Court and the same is listed for hearing on 08.03.2022.

1. By an Order dated 24.11.2020 passed by the Hon'ble National Company Law Tribunal (NCLT), Principal Bench, New Delhi in CP No. (IB)-1082(PB)/ 2018, one Mr. Devendra Singh has been appointed as 'Resolution Professional' in respect of the applicant Company herein. The Registration No. of the said Resolution Professional is IBBI/IPA-002/IP-

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N00001/ 2016-17/10001. A copy of the said Order dated 24.11.2020 passed by the Hon'ble NCLT, New Delhi is annexed hereto and marked as "R-1"

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

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

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 Alchemist 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

[Sd. Rajesh Bindal, C.J. (A.)]

[Sd.Rajarshi Bharadwaj, J] '

Vide the above-reproduced order; this Hon'ble Court was pleased to direct that no final order shall be passed by the NCLT New Delhi during the pendency of the present writ petition before this Court. A copy of the order dated September 16, 2021 is annexed hereto and marked "R-2". In humble submission of the petitioner , this part of the order dated 16.09.2021 deserves to be suitably modified/clarified, inter-alia on the following grounds:-

a) 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 of the value of the assets of such persons, and balance the interest of all the

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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 referred to in Section 14 IBC.

b) 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" against the corporate debtor, including execution of any judgment, decree, or order in any court of law, tribunal, arbitration panel, or any other authority. Section 14 reads as follows:
'*14. Moratorium.—(1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the adjudicating authority shall by order declare moratorium for prohibiting all of the following, namely—*

(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b) transferring, encumbering, alienating or disposing off by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);



(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

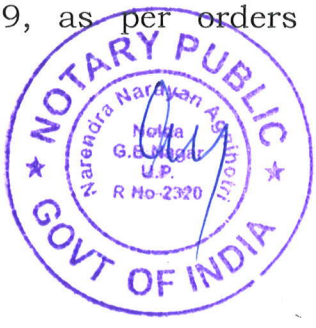
(2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(3) The *provisions of sub-section (1) shall not apply to—*
(a) such transaction as may be notified by the Central Government in consultation with any financial regulator;

(b) a surety in a contract of guarantee to a corporate debtor.

(4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:
Provided that where at any time during the corporate insolvency resolution process period, if the adjudicating authority approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of corporate debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.'

Thus as per the above reproduced section, on the commencement of the insolvency proceedings, there is declaration of moratorium which prohibits the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority. In the present case, the applicant herein being the 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 Malhotra V/s Alchemist Township India Ltd.' bearing No. (IB)-1082 (PB)/2018. Thus the applicant humbly submits that , the present writ petition could not have continued qua the applicant once the CIRP were initiated.

. 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.

c) That further, 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 laws, the present writ petition should also be

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kept in abeyance qua the applicant till the culmination of the resolution process.

d) That section 231 of the IBC bars the jurisdiction of civil courts in respect of any matter in which the adjudicating authority i.e. NCLT or NCLAT is empowered by the Code to pass any order. Section 231 is set out herein below for the kind and ready reference of this Hon'ble Court:

'231. Bar of jurisdiction—No civil court shall have jurisdiction in respect of any matter in which the adjudicating authority or the Board is empowered by, or under, this Code to pass any order and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any order passed by such adjudicating authority or the Board under this Code.'

It is respectfully submitted that, in view of the various provisions of the IBC, this Hon'ble Court ought not to have passed an order restraining the NCLT New Delhi from passing an order once the proceedings under the IBC had commenced and an order declaring moratorium was passed by NCLT, New Delhi. Thus it is respectfully prayed suitable modification of the order said dated 16.09.2021 passed by this Hon'ble Court in the instant writ petition.

e) That, it is also submitted that all the writ petitioners who have any claims against the instant applicant company should be directed to file their respective claims with Mr. Devendra Singh, being the Resolution Professional appointed in respect of the applicant company in order to avoid any overlapping of recoveries etc. It may also be in the favour of all the stakeholders and writ petitioners if the assets or monies lying with

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the one-man committee i.e. The "Talukdar Committee" being headed by Hon'ble Mr. Justice S.P. Talukdar (Retd.) may be also released in favour of the said Resolution Professional so that a more holistic and comprehensive resolution process can be given effect to.

3. That apart from the submissions made herein above, the applicant company likes to place on record before this Hon'ble Court the steps being initiated by the resolution Professional under the resolution process for the kind reference of this Hon'ble Court. The applicant company respectfully submits the following details for the kind consideration of this Hon'ble Court:-

i) That the applicant company 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 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 07.08.2016 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.

ii) 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. Copy of the order-dated 25.01.2019 is

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annexed herewith as "R 3". In terms of the provisions under section 15 of the IBC, 2016 read with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Public Announcement in Form-A with respect to commencement of Corporate Insolvency Resolution Process of the applicant company was made on 02.02.2019 and Form-A was published in Financial Express (English), Jansatta in Delhi and Chandigarh and Daily Chardikala (Punjabi) in Patiala region on 02.02.2019.

iii) 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 Adjudicating Authority gave directions to Interim Resolution Professional (IRP) not to constitute a committee of creditors until further orders. In the subsequent hearing held on 01.02.2019, Hon'ble NCLAT, New Delhi set aside the order of the NCLT dated 25th of January 2019.

iv) 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 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 (Punjabi) in Patiala Edition

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on 12.10.2020 regarding revival of the application CP(IB) No. 1082 (PB)/2018. 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.

v) 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-dated24.11.2020, the Hon'ble NCLT Principal Bench, New Delhi appointed the Deponent as the Resolution Professional. Orders dated 25.01.2019, 01.10.2020 & 24.11.2020 as passed by the Hon'ble National Company Law Tribunal (NCLT), Principal Bench, New Delhi in (IB)-1082 (PB)/2018 are annexed herewith as "R 4", "R 5" and "R 6" respectively for ready reference.

vi) 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 applicant company herein. In order to take the CIRP process forward and keeping in mind the large number of stakeholders involved, SMS based e-voting portal was set up for which voting lines were opened from 15.09.21 to 21.09.2021 for Financial creditors and authorize representatives. Subsequently after conducting the voting of the COC, the RP in compliance of Regulation 26(5), of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016, circulated the summary of e-voting on 22.09.2021.

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vii) That the Resolution Professional of the applicant company 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 way of regular Progress Reports. Copy of latest 6th Progress Report is attached as "R 7" for the kind consideration of this Hon'ble Court. As per detail therein, the following is summary of claims received and provisionally admitted:-

Total Claims Received (Claimants)	7,76,232
Provisionally admitted	5,63,361
Duplicate/Rejected	1,15,702
Under Verification	97,169
Claims Admitted Provisionally - Principal	Rs. 1,660.04 cr.
Interest Calculated on above	Rs. 888.92 cr
Total Amount Provisionally admitted	Rs. 2,549.05 cr.

Due to voluminous claim data being received on daily basis, the verification and updation of claim is a rigorous and dynamic process. The Resolution Professional is verifying the list on regular basis and subsequent data/list shall be updated and will be placed before this Hon'ble Court on regular basis. Further, the detailed list of Financial Creditors as updated on 20.11.2021 is annexed herewith for the kind perusal of this Hon'ble Court as "R 8".

viii) That the applicant seeks the leave of this Hon'ble Court to place on record a brief note on claim verification methodology and admission being adopted by the Resolution Professional as under:-

(a) After the receipt of order dated 24.11.2020 passed by Hon'ble NCLT, Principal Bench, New Delhi, for the appointment of Resolution

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Professional in C.P. NO. (IB)-1082(PB)/2018, the copy of the order was served upon the Resolution Professional on 03.12.2020. A designated E-mail account was created particularly for the CIRP of the instant matter. The Resolution Professional made the general public announcement on 10.12.2020 in Business Standard all edition (Hindi and English) and Daily Chardhi-Kala, Patiala Edition in Punjab.

(b) The Resolution Professional , after verification admitted the claims on regular basis, reconstituted the Committee of Creditors (CoC) on 18.12.2020, 28.02.2021, 18.05.2021 and 20.07.2021 accordingly. The updated list of creditors in compliance with Regulation 13 read with 14 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, was filed before the Hon'ble NCLT, Principal Bench, New Delhi accordingly and the report for reconstitution of COC in compliance with Regulation 17 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 was also filed before the Hon'ble NCLT, Principal Bench, New Delhi accordingly. Thereafter second, third and fourth CoC meetings were convened by the Resolution Professional (RP).

(c) After the General Public Announcement, which was published on 10.12.2020, gradually the number of mails started increasing which at certain point of time the number of emails crossed over 10,000 on per day basis. As of now, the Resolution Professional is in receipt of over 400 mails per day.

(d) The Resolution Professional gradually realized that the stakeholders involved in the matter belongs to various states of the country such as Bihar, UP, Orissa, West Bengal, Andhra Pradesh,

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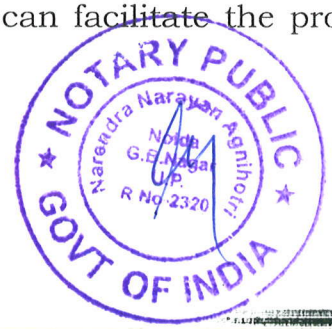
Maharashtra, Assam etc. On perusal of documents of claim it was also found by the Resolution Professional that the financial creditors in a class (stakeholders) have only one document i.e. the receipt for the money paid by them to the applicant company in which certain information were captured such as Name of the Applicant, tenure of investment, Application Number, Customer ID, Maturity Amount and Maturity Date etc. The Resolution Professional neither had any knowledge about the number of stakeholders in the matter nor did the applicant company provide any information about the stakeholders so far. The applicant company further states that the entire record pertaining to stakeholders were seized by the Enforcement Directorate in their search which was conducted on 19.09.2019. Meanwhile, the Resolution Professional was in receipt of over 250-300 phone calls on daily basis which were extremely difficult to attend.That it is also pertinent to note that the financial creditors in a class as observed by the Resolution Professional belongs to very poor class such as labourers, farmers, vegetable vendors, shopkeepers and the majority of them are not from educated fraternity. They are filing their claims through intermediaries such as agents and CSC etc. and large number of claims is being sent through common email ID's.

(e) For submission of claims by the stakeholders, an email id (cirp.atil@gmail.com) was created by the RP. As the information was disseminated via public announcements, the number of emails started increasing at an exponential pace. Keeping in view the large number of stakeholders involved in the matter and in order to effectively handle their data and grievances, it was decided to set up helpline (Call Centre) and "Stakeholders Data Management Cell", an EOI was circulated on 29.12.2020 for the establishment and appointment of Stakeholders Data Management Cell which can facilitate the process of collation of claims



data. After receipt of EOIs, the undersigned established and created "Stakeholders Data Management Cell" on 07.01.2021 wherein the scope of work was elaborately defined which consists starting of helpline numbers and data collation team. After the establishment of "Stakeholders Data Management Cell" the Deponent further published the general public announcement on 16.01.2021 wherein the stakeholders were intimated about the website and help line numbers.

(f) On receiving the data from the stakeholder data management cell, series of random sampling was done again to ensure correctness of data. Any deviation, if found, were informed to the Stakeholder Data Management Cell and rectifications were made accordingly. After all the calculations are done, duplicates entries are filtered from previous lists and such entries are segregated. Claims, which do not pertain to the corporate debtor, are marked as rejected. On completion of all the said steps, the list is then uploaded on the website. The claims do not have complete information kept as pending for further processing.

(g) The RP, after receipt of data in excel format, verifies the claims after at random checking and admit the claims accordingly. The admitted claim list regularly uploaded on the website.

ix) That it will be most imperative to mention herein that many claimants have wrongly submitted claims under the IBC with the RP as well as with the 'One Man Committee' as appointed by this Hon'ble Court being headed by Hon'ble Mr. Justice S.P. Talukdar (Retd.). On preliminary sample checking, the Resolution Professional has found 14 such instances of duplicate claims. A list depicting the duplicate claims is annexed herewith as "R 9" for the kind and ready reference of this Hon'ble Court. A more comprehensive and detailed analysis and

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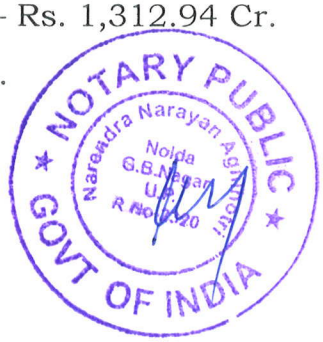
comparison is being undertaken by the Resolution Professional to ensure that there are no fictitious and duplicity of claims. The Resolution Professional also intends to initiate suitable criminal action against the persons lodging such false claims in terms of the provisions of the Code of 2016.

x) That it will be most imperative to mention herein that the entire records and computer data of the applicant company had been seized by Enforcement Directorate (ED) during raids on the company's premises in the year 2019. As such, the management of the company has not been able to provide required record to the RP, due to which the RP is not able to finally verify the above-referred claims. RP had approached Hon'ble NCLT to direct ED to supply the record to RP. The same has been denied in NCLT and the RP has been directed to approach the Special Court, PMLA for the same. This attempt by RP is under progress and next date of hearing has been fixed for 06.12.2021. Copy of the application moved by the RP before the Hon'ble NCLT, New Delhi is annexed as "R 10". The order dated 27.07.21 directing the RP to make application to the relevant authorities is annexed herewith as "R 11". Thus the CIRP process is being hampered due to the above detailed reason. Despite these challenges, the Resolution Professional is trying his best to complete the CIRP of Respondent no.27.

xi) That another important facet that deserves to be brought to the kind attention of this Hon'ble Court is that On scrutiny of the audited statements of account of the company shows that amongst others, major amounts invested in certain companies has recovery value. Main instances:

- Technology Parks Limited. – Rs. 1,312.94 Cr.
- Alchemist Limited – Rs. 9.67 Cr.



Technology Parks Limited reportedly owns 200 acres of prime land at Noida, which has reported market value upwards of Rs. 1000 cr. RP has initiated recovery action by way of filing an application under Sector 7 of IBC to take Technology Parks Limited into CIRP and value recovery. Copy of the application u/s 7 of the Insolvency & Bankruptcy Code, 2016 filed by the RP against Technology Parks Ltd. is appended herewith as "R 12" for the kind perusal of this Hon'ble Court. The same is registered as IB-270/ND/2021 and matter is pending adjudication before the Hon'ble National Company Law Tribunal, New Delhi.

xii) That it will be most pertinent to mention herein that there is asset value in the applicant company by way real estate development project at Talwandi, Punjab having a book value Rs. 7.48 cr. Valuers have been appointed by RP to assess the actual market value of the project. The report is under progress and will be placed before this Hon'ble Court in due course for perusal. Also there is 14 acre land near Durgapur, West Bengal, as part of new international airport project & its book value is Rs. 28.78 cr. Valuers have been appointed by RP to assess the actual market value of the project. The report is under progress and will be placed before this Hon'ble Court in due course for perusal.

xiii) That it will be apposite to mention herein that after admission of the applicant company into CIRP under IBC by the Hon'ble NCLT, the said process supersedes all other recovery processes. As such, in humble submission of the applicant company, the Hon'ble Talukdar Committee now hold no jurisdiction on the claims qua the applicant company and is hence obliged to share all data with the Deponent as well as it is incumbent upon the Hon'ble Committee to transfer all funds lying with it in respect of this company to RP's account. Reportedly there is an instance where the said committee has sold certain shares owned

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by the applicant company at a lower value and the value has now increased manifold. Such loss of value is to the detriment of the applicant company's interest. RP has written to the committee repeatedly, without response. Copies of the letters written by the Deponent to the Hon'ble Talukdar Committee are annexed herewith as "R 13". The Resolution Professional humbly beseeches the kind indulgence of this Hon'ble Court to pass suitable directions in this regard so that the entire process can be streamlined for the ultimate benefit of the investors.

xiv) That another vital aspect that deserves immediate indulgence of this Hon'ble Court is that the provisions of IBC supersede the provisions of other laws and attachments by any enforcement agency. Towards that, the Enforcement Directorate should release attachment of the company's assets in favour of RP, to enable the RP to recover value thereof and satisfy the claims made by depositors through process of inviting Resolution Plans from Resolution Applicants. The applicant company humbly beseeches the kind indulgence of this Hon'ble Court to pass suitable directions in this regard so that the entire process can be streamlined for the ultimate benefit of the investors.

xv) That as elucidated above, the applicant company being represented through the Resolution Professional have made efforts on both accounts as per provisions of IBC i.e. inviting and verifying claims of persons who had invested in the company by way of claim invitation and verification process as explained above as also running the process of price discovery and resolution of the company, for which RP has invited submission of Resolution Plans by way of publication of prescribed Form G, whereby prospective resolution professionals have applied. Copies of the Form G dated 25.12.2020, 16.01.2021,

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10.04.2021 and 23.09.2021 are appended herewith and collectively marked as "R 14" for the ready reference of this Hon'ble Court.

xvi) In the facts and circumstances stated above it is explicit that the Resolution Professional may be directed of taking forward the CIRP process in consonance with the provisions of the Insolvency and Bankruptcy Code, 2016. Thus it is most respectfully submitted that this Hon'ble Court may please to direct the writ petitioners to lodge their respective claims with the Resolution Professional so that their funds may be recovered by the prescribed process of law enacted for this purpose.

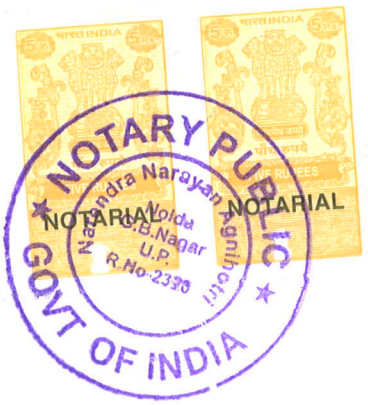
4. This application is made bonafide and in the interest of justice.

In the circumstances, the Applicant prays before your Lordships for following Order:-

a. The order-dated 16.09.2021 be suitably modified/clarified by deleting the portion of the said order dated 16.9.2021 whereby the Hon'ble NCLT was directed not to pass any final order during the pendency of the instant writ application;.

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 Ltd. during the pendency of the corporate insolvency resolution process.





c. Ad-interim order be passed in terms of the paryers above;

d. Pass such other order or orders and/or direction ordirections be given as to this Hon'ble Court may deem fit and proper.

And your Applicant as in duty bound shall ever pray.

Advocate for the Applicant

Devendra Singh





ATTESTED

Narendra Narayan Agnihotri
Advocate Notary
R.No-2320
Noida (G.B. Nagar)
3 MAR 2022

AFFIDAVIT

I, Devendra Singh, son of late Sh. Daryao Singh, aged about 57 years, by religion Hindu, by occupation Professional, having his office at Assotech Business Cresterra, Office No.216, 2nd Floor, Tower-1, Sector-135, Noida, Uttar Pradesh-201305, Resolution Professional, Alchemist Township India Limited (Respondent No. 27), Regn. No. IBBI/IPA-002/IP-N00001/2016-17/10001, do hereby solemnly affirm and say as follows:-

1. I am the Resolution Professional of the Respondent No.27/applicant. I have been appointed pursuant to the order dated 24.11.2020 passed by the Hon'ble National Company Law Tribunal (NCLT), Principal Bench, New Delhi in CP No. (IB)-1082(PB)/ 2018I. I am and have further made myself conversant with the facts and circumstances of the present application and am competent to affirm this affidavit.

2. That the statements made in paragraph 1, 2 and 3 of the instant application are true to my knowledge, those made in paragraph no. 4 are information derived from records which the applicant believe to be true and those made in paragraph no. 5 are my humble submission before this Hon'ble Court.

Prepared in my office

Devendra Singh

DEPONENT is known to me

Advocate

Clerk to

Solemnly affirmed before me

On this the day of March, 2022

COMMISSIONER

I certify that all annexures are legible

Advocate

NOTARY PUBLIC GOVT OF INDIA Noida G.B. Nagar U.P. R.No-2320

ATTESTED

Narendra Narayan Agnihotri
Advocate Notary
R.No-2320
Noida (G.B. Nagar)

- 3 MAR 2022

DISTRICT : NORTH 24 PARGANAS

IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

CAN of 2022

W. P. No.1389 (W) of 2017

In the matter of:

An application for modification and/or variation of the order dated 16th September, 2021

And

In the matter of:

An application under Article 226 of the Constitution of India;

And

In the matter of :

An application under Public Interest Litigation;

And

NOTARY PUBLIC
Narendra Narayan Agnihotri
Noida
G.B.Nagar
U.P.
R No.2020
GOVT OF INDIA

In the matter of :

Ajoy Kumar Das & Ors.

.... Petitioners

-:VERSUS:-

Union of India & Ors.

... Respondents

AFFIDAVIT OF COMPETENCY

I, Devendra Singh, son of late Sh. Daryao Singh, aged about 57 years, by religion Hindu, by occupation Professional, having his office at Assotech Business Cresterra, Office No.216, 2nd Floor, Tower-1, Sector-135, Noida, Uttar Pradesh-201305, do hereby solemnly affirm and say as follows:-

1. I am the Resolution Professional of the Respondent No.27/applicant. I have been appointed pursuant to the order dated 24.11.2020 passed by the Hon'ble National Company Law Tribunal (NCLT), Principal Bench, New Delhi in CP No. (IB)-1082(PB)/ 2018I. I am and have further made myself conversant with the facts and circumstances of the present application and am competent to affirm this affidavit.

A copy of the said order dated 24.11.2020 passed by the Hon'ble National Company Law Tribunal (NCLT), Principal Bench, New Delhi in CP No. (IB)-1082(PB)/ 2018 is annexed hereto and marked "X".

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Noida
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U.P.
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2. Pursuant to the aforesaid I am competent to sign the vakalatnama in favour of MR. DILIP GHOSH, Advocate of 7, Tara Chand Dutta street, 2nd Floor, Room No.2K, Kolkata – 700 073 and also to sign petition, affidavit and all other relevant documents and papers if and when required in the above suit.

3. That the above statements are all true to my knowledge.

Prepared in my office

Deponent is known to me

Advocate

Clerk to Mr.

Advocate

Solemnly affirmed before me
on this the day of March, 2022

Commissioner

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Narendra Narayan Agnihotri
Noida G.B.Nagar U.P.
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ATTESTED
Narendra Narayan Agnihotri
Advocate Notary
R.No-2120
Noida (G.B. Nagar)
- 3 MAR 2022