IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. 1389 of 2017
IN THE MATTER OF:
An application under Article 226 of the Constitution of India:
AND
IN THE MATTER OF:
Ajoy Kumar das & Ors.
VS
Union of India & Ors.
Ajay Kumar Das & Others
.....Petitioners
-Versus-
Union of India & Others
.....Respondents

I, Devendra Singh, son of Late Sh. Daryao Singh, aged about 57 years, by religion Hindu, by occupation Professional, residing at ATS Greens Paradiso, Flat No.: 02054, Tower-2, Plot No.: GH-03, Sector-CHI-04, Greater Noida, Uttar Pradesh-201308, do hereby solemnly affirm and say as follows:-

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

1. By an order dated 24.11.2020 passed by the Hon'ble National Company Law Tribunal(NCLT), Principal Bench, New Delhi in C P No. (IB)-1082(PB)/2018, I have been appointed as 'Resolution Professional' in respect of Alchemist Township India Limited, the Respondent No. 27

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herein. My Registration No. is IBBI/IPA-002/IP-N00001/2016-17/10001. A copy of the said order dated 24.11.2020 passed by the Hon'ble NCLT is annexed hereto and marked as "R-1".

2. That vide order dated September 16, 2021 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....'*

A copy of the said order dated September 16, 2021 is annexed hereto and marked "R-2".

3. That in deference to the above order, I am filling the instant affidavit for and on behalf of the Respondent No. 27 to the following effect:-

NOTARY PUBLIC ★ Narendra Narayan Agnihotri Noida G.B. Nagar U.P. R No. 2320 ★ GOVT OF INDIA

i) That it is most humbly submitted that M/s Alchemist Township India Ltd. is undergoing Corporate Insolvency Resolution Process (CIRP) under the Insolvency & Bankruptcy

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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 & Mr. PramodGoel was appointed as the Interim Resolution Professional. Copy of the order-dated 25.01.2019 is 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 Respondent No. 27 i.e. Alchemist Township India Ltd. was made on 02.02.2019 and Form-A was published in Financial Express (English), Jansatta in Delhi & Chandigarh and Daily Chardikala (Punjabi) in Patiala region on 02.02.2019.

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iii) That one sharcholder of M/s Alchemist Township India Ltd. filed an appeal before the Hon'ble National Company Law

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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 & Chandigarh Editions and Daily Chardikala (Punjabi) in Patiala Edition 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.

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v) That the committee of creditors in its first meeting held on 23.10.2020 approved the resolution for appointment of the

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Deponent as a resolution professional in the matter. Vide order-datcd24.11.2020, 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 Deponent 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. Respondent No. 27 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 Deponent 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:-

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

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(b) The Deponent, 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 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, still the Deponent is in receipt of over 400 mails per day.

(d) The RP 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, Maharashtra, Assam etc. On perusal of documents of claim it was also found that the financial creditors in a class (stakeholders) have only one document i.e. the receipt for the money paid by them to the Corporate Debtor in which certain information were captured such as Name of the Applicant, tenure of investment, Application

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Number, Customer ID, Maturity Amount and Maturity Date etc. The Deponent neither had any knowledge about the number of stakeholders in the matter nor did the Corporate Debtor provide any information about the stakeholders so far. The Corporate Debtor further claimed 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 Deponent 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 RP 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 claborately defined which consists starting of helpline numbers and data collation team. After the establishment

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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 Deponent 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 Deponent 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 comparison is being undertaken by the Deponent to ensure that there are no fictitious and duplicity of

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claims. The Deponent 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 respondent no. 27 i.e. Alchemist Township India Ltd. 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 Deponent is trying its best to complete the CIRP of Respondent no.27.

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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.

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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 Alchemist Township India Ltd. i.e. Respondent No. 27 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.

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xiii) That it will be apposite to mention herein that after admission of the 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 Deponent, the Hon'ble Talukdar Committee now hold no jurisdiction on the claims qua the Respondent No. 27 and is hence obliged to share all data with

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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 by the company at a lower value and the value has now increased manifold. Such loss of value is to the detriment claimant'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 Deponent 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 theprovisions 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 Deponent 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, I being 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

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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, 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 I, being the Resolution Professional, am 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 petitioners to lodge their respective claims with the me being Resolution Professional so that their funds may be recovered by the prescribed process of law enacted for this purpose.

4. That statements made in paragraphs 1 to 3 (including the respective sub-paragraphs) of the foregoing affidavit are based on the available records of the case and believe to be true and the rest are my respectful submissions before this Hon'ble Court.

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Prepared in my office

Advocate

Devendra Singh

DEPONENT is known to me

Clerk to

Solemnly affirmed before me

On this the 7th day of December, 2021

COMMISSIONER

I certify that all annexures are legible

Advocate

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**IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI**
**PRINCIPAL BENCH**

**ITEM No. 09**
**(IB)-1082(PB)/2018**

**IN THE MATTER OF:**
Kiran Malhotra .... Applicant/petitioner
v.
Alchemist Township India Ltd. .... Respondent

**Order under Section 7 of Insolvency & Bankruptcy Code**

**Order delivered on 24.11.2020**

**CORAM:**
**SH. B.S.V. PRAKASH KUMAR**
**HON'BLE ACTG. PRESIDENT**

**SH. HEMANT KUMAR SARANGI**
**HON'BLE MEMBER (TECHNICAL)**

**PRESENT:**
For the Applicant :Mr. P. Nagesh, with Mr. Karan Rajpurohit, Advs. in I.A. No. 5099 of 2020

**ORDER**

It is an application moved by the CoC for appointment of Mr. Devendra Singh bearing Registration No. IBBI/IPA-002/IP-N00001/2016-17/10001 as Resolution Professional in the place of Mr. Pramod Goel, IRP, based on the proposal made by the CoC vide resolution dated 23.10.2020, upon due consideration, this Bench hereby appoints Mr. Devendra Singh as Resolution Professional.

Accordingly, this IA-5099/2020 is hereby **allowed**.

Sd-

**(B.S.V PRAKASH KUMAR)**
**ACTG. PRESIDENT**

Sd-

**(HEMANT KUMAR SARANGI)**
**MEMBER (TECHNICAL)**

24.11.2020
Deepak Kumar

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