

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION**

NOTICE OF MOTION NO.131 OF 2017

NOTICE OF MOTION NO.623 OF 2017

NOTICE OF MOTION NO.760 OF 2018

NOTICE OF MOTION NO.2400 OF 2018

IN

COMMERCIAL SUIT NO.158 OF 2017

L & T Infrastructure Finance Co. Ltd.)....Plaintiff

V/s.

Gupta Global Resources Pvt. Ltd. & Anr.)....Defendants

Dr.Birendra Saraf a/w Mr.Rajeev Carvalho, Mr.Sachin Chandarana and Mr.Vivek Dwivedi I/by Manilal Kher Ambalal and Co. for plaintiff.
Mr.Karl Tamboly a/w Mr.Ashish Pyasi, Ms.Pragya Thakar and Mr.Umang Thakar I/by Dhir and Dhir Associates for defendant no.1.
Mr.Anoshak Daver a/w Mr.Nirav Shah and Ms.Priyanka Mehta I/by Little and Co. for defendant no.2.

CORAM : K.R.SHRIRAM,J

DATE : 22.4.2019

P.C.:-

1. After the matter was heard for some time, on the suggestion made by the Court, the Counsel Dr.Saraf for plaintiff, Mr.Tamboly for defendant no.1 and Mr.Daver for defendant no.2 requested the Court to pass the following order :-

ORDER

(1) It shall be open to the Liquidator of defendant no.1 to make an application in National Company Law Tribunal (NCLT) seeking a claim on the amount lying in the Trust & Retention Account (TRA) or any part thereof ;

(2) None of the parties will raise an objection to NCLT hearing such an application or question the jurisdiction of NCLT to hear such an application :

(3) If NCLT determines, after hearing all the parties including plaintiff to the suit or any other interested parties, that Liquidator is entitled to all or any part of the money lying in TRA, then the order dated 2.3.2017 read with order dated 7.3.2017 in the suit will not prevent defendant no.2 (SBI) from disbursing such amount as may be determined as the entitlement of the company to the Liquidator ;

(4) The ad-interim order (injunction) granted by this Court on 2.3.2017 read with order dated 7.3.2017 shall be continued and is subject to any order to be passed by the NCLT as regards the entitlement of the Liquidator ;

(5) The parties to this suit undertake not to seek any adjournment in the NCLT as and when the application of the Liquidator is taken up for hearing.

2. In view of this order passed by this Court, as the Liquidator is, I am informed, running short of funds and the process of liquidation is getting hampered, NCLT may take up the hearing at once an application is made by the Liquidator and dispose of the application at the earliest.

3. Mr.Tamboly for the Liquidator states that the application will be filed within 4 weeks from today.

4. If any of the parties are aggrieved by the order passed by the NCLT, it will be open for the parties, if advised, to take such further steps in accordance with law.

5. All rights and contentions of parties are kept open.

6. In view of the above order, Notice of Motion No.2400 of 2018, Notice of Motion No.720 of 2018, Notice of Motion No.760 of 2018 and Notice of Motion No.131 of 2019 stand disposed. The right of plaintiff to seek disclosure from defendants in the suit are kept open.

(K.R.SHRIRAM,J)