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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ OMP (ENF.) (COMM.) 205/2021, EX.APPL.(OS) 3024/2022
EX.APPL.(OS) 3312/2022, EX.APPL.(OS) 442/2023,
EX.APPL.(OS) 815/2023, EX.APPL.(OS) 218/2024 &
EX.APPL.(OS) 674-675/2024

ENTERTAINMENT CITY LIMITEDDecree Holder

versus

ASPEK MEDIA PVT. LTD.Judgement Debtor

+ O.M.P.(I) (COMM.) 232/2022 & I.A. 17111/2023

ENTERTAINMENT CITY LIMITEDPetitioner

versus

ASPEK MEDIA PVT. LTD.Respondent

Appearances:

Mr. Siddharth Batra, Ms. Shivani Chawla, Mr. Rohit Gupta, Mr. Chinmay Dubey, Mr. Rhythm Katyal, Mr. Pratyush Arora, Advocates for ECL.

Mr. Sunil Kumar, Advocate for Mr. A. Ghosh.

Mr. Asutosh Lohia, Mr. Atul Verma, Mr. Rohit S., Mr. Sharan Mehta, Advocates for judgment debtor.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **03.07.2024**

O.M.P.(I) (COMM.) 232/2022

1. This is a post-award petition under Section 9 of the Arbitration and



Conciliation Act, 1996 [“the Act”] filed for interim measures of protection, pending enforcement of an arbitral award dated 31.05.2021.

2. The petitioner has already filed enforcement proceedings [OMP (ENF.) (COMM.) 205/2021] under Section 36 of the Act. It is not in dispute that the reliefs sought in the Section 9 petition can, in fact, be sought in the enforcement proceedings.

3. The petition is, therefore, disposed of, without prejudice to the rights of the petitioner to seek such interim and final orders as available in law in the enforcement proceedings.

OMP (ENF.) (COMM.) 205/2021

1. The award holder seeks enforcement of an arbitral award dated 31.05.2021 by which an amount of approximately Rs.24 crores has been awarded to it against the judgment debtor, alongwith interest thereupon.

2. Although a petition under Section 34 of the Act [O.M.P.(COMM.) 317/2021] is pending before this Court, I am informed that no interim orders have been passed therein.

3. By an order dated 14.12.2022, judgment debtor was directed to deposit the awarded amount. It failed to do so. Having regard to this position, the Court passed an order of attachment in respect of five immovable properties mentioned in an affidavit of assets filed by the judgment debtor on 10.10.2022. Upon an application of the decree holder, one of the properties was released from attachment by order dated 28.02.2023 on the ground that it was, in fact, an asset of the decree holder.

4. By order dated 04.01.2024, the Court also directed a forensic audit for verification and investigation of assets and disclosures made by the



judgment debtor in the affidavit of assets filed by it. The auditor has submitted a report, to which the judgment debtor has filed objections.

5. According to Mr. Siddharth Batra, learned counsel for the decree holder, the auditor's report discloses widespread evidence of siphoning of the judgment debtor company's assets during the period the arbitration was ongoing. The award holder has, therefore, made an application seeking lifting of the corporate veil.

6. Mr. Asutosh Lohia, learned counsel, appears on behalf of the judgment debtor, and states that he has been recently engaged and requires some time to argue his objections to the auditor's report.

7. For the present, the judgment debtor is directed to file an affidavit within four weeks, including its audited accounts for the period since the commencement of the arbitration proceedings. It will also file a statement disclosing the identity of its shareholders, directors and key management personnel during the aforesaid period, to the extent that it has not been stated in the objections filed by the judgment debtor to the forensic audit report.

8. At least one of the present directors of the judgment debtor – Company conversant with the financial transactions and accounts of the Company will remain personally present in Court on the next date of hearing, alongwith any other representative of the judgment debtor as may be considered necessary to explain the transactions referred to in the forensic audit report.

9. The objections to the forensic audit report will also be furnished to the auditors who prepared the report for their comments. They are requested to provide their comments within a period of four weeks from



today.

10. List on 03.09.2024.

JULY 3, 2024/‘Bhupi’/

PRATEEK JALAN, J