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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 579/2021 & I.A. 10578/2024**

PHI LEARNING PRIVATE LTD Plaintiff
Through: Mr. Prajwal Kushwaha, Adv.
versus

UBS PUBLISHERS DISTRIBUTORS PVT LTD Defendant
Through: None.

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **09.05.2024**

1. This hearing has been done through hybrid mode.

I.A.10578/2024 (u/O VII Rule 11 CPC) in CS(COMM) 579/2021

2. The present suit has been filed by the Plaintiff - PHI Learning Private Ltd. under Order XXXVII CPC seeking recovery of Rs.2,85,17,753/-. In the suit, summons were issued on 17th November, 2021 under Order XXXVII CPC. The memo of appearance was filed.

3. The Defendant-UBS Publishers Distributors Pvt. Ltd. has now, in the meantime, filed an application seeking leave to defend in the matter. However, the present application under Order VII Rule 11 CPC has been moved by the Resolution Professional to place before the Court, important facts in respect of the Defendant.

4. The Defendant, which was engaged in the business of publication and distribution of books, plunged into financial difficulties due to amounts owed to various creditors. Insolvency proceedings were initiated by M/s Pearson India Education Services Pvt. Ltd. before the National Company



Law Tribunal (*hereinafter*, 'NCLT') in ***CP(IB)-1095 (ND)/2020*** titled ***M/s Pearson India Education Services Pvt. Ltd. v. M/s. U.B.S. Publishers Distributors Private Limited.***

5. The NCLT, vide order dated 21st October, 2022, announced a moratorium and had appointed Mr. Ajay Gupta as the Interim Resolution Professional (*hereinafter*, 'IRP'). Thereafter, the said IRP was designated as the Resolution Professional (*hereinafter*, 'RP') on 23rd March, 2023, and had taken over the business of the Defendant company - UBS Publishers Distributors Pvt. Ltd. A publication was also made in a leading newspaper, and claims of the creditors were received. The RP then admitted the claims of the creditors to the extent of Rs.2,40,93,178/-. One of the claims has been lodged by the Plaintiff herein, who has been awarded the following amounts by the RP:



Details of distributable amount to the Creditors of UBS Publishers Distributors in accordance with the Resolution Plan approved by Hon'ble NCLT

S. No.	Name of the Creditor	Type	Amount Admitted	Amount to be paid in 1st Tranche	Amount to be paid in 2nd Tranche	Total Amount payable	% of amount to be paid
1	Rakesh Kumar	Employee	21,290	21,290	-	21,290	100%
2	C Raju	Employee	56,950	56,950	-	56,950	100%
3	Vinileshan D	Employee	45,681	45,681	-	45,681	100%
4	H Maheshbabu	Employee	69,493	69,493	-	69,493	100%
5	Sugreev Yadav	Employee	14,825	14,825	-	14,825	100%
6	Balance amount kept aside	Employee	-	1,91,761	-	1,91,761	
			2,08,239	4,00,000	-	4,00,000	
7	McGraw Hill Education (India) Pvt Ltd	Operational Creditor	29,64,97,785	55,22,083	60,42,827	1,15,64,911	3.90%
8	Pearson India Education Services Pvt Ltd	Operational Creditor	22,98,63,083	42,81,054	46,84,767	89,61,821	3.90%
9	M N Adilagan	Operational Creditor	11,804	220	241	460	3.90%
10	R Subramanyam	Operational Creditor	37,711	702	769	1,471	3.90%
11	Pragati Printers	Operational Creditor	1,40,040	2,608	2,854	5,462	3.90%
12	Sanjay Kumar Sharma	Operational Creditor	10,161	189	207	396	3.90%
13	Tapas Kumar Ojha	Operational Creditor	16,826	500	547	1,046	3.90%
14	Sukanta Kumar Das	Operational Creditor	16,766	312	342	654	3.90%
15	Sameer Dewan	Operational Creditor	13,500	251	275	527	3.90%
16	S K International	Operational Creditor	7,597	141	155	296	3.90%
17	Shipli Dewan and Associates	Operational Creditor	35,577	663	725	1,388	3.90%
18	SCV & Co LLP	Operational Creditor	3,00,310	5,593	6,121	11,714	3.90%
19	Bharti Bhawan (Publishers & Distributors)	Operational Creditor	32,61,090	60,736	66,463	1,27,199	3.90%
20	Lucent Publication	Operational Creditor	1,95,81,907	3,64,701	3,99,093	7,61,793	3.90%
21	Bishwatosh Ganguly	Operational Creditor	19,024	541	592	1,132	3.90%
22	Rela India Pvt Ltd	Operational Creditor	3,93,99,499	7,33,791	8,02,989	15,36,779	3.90%
23	PHI Learning Pvt Ltd	Operational Creditor	2,40,93,178	4,48,720	4,91,035	9,39,756	3.90%
			61,33,25,858	1,14,22,805	1,25,00,000	2,39,22,805	
	Total Distributable amount			1,18,22,805	1,25,00,000	2,43,22,805	

6. The Petitioner's claim is admitted at sl. No. 23 in the above table. Thereafter, the RP published notices on 20th December, 2022, and 26th January, 2023, in the all-India editions of Financial Express and Jansatta, inviting Resolution Plans. In response, a consortium comprising M/s Kapivar Finlease Pvt. Ltd., M/s Har-Anand Publications Pvt. Ltd., and M/s Agbros Fincap Pvt. Ltd., (*hereinafter, 'the Consortium'*) expressed their interest and subsequently submitted their Resolution Plan. This plan, which



was put up by the RP, was also approved 3rd May, 2023 by the Committee of Creditors and finally, the NCLT approved the plan on 21st August, 2020. The first tranche of admitted amounts have been paid to the Plaintiff and the RP has stated in paragraph 9 of the application as under:

“9. That in accordance to approved plan by CoC and pursuant thereto approved by the Hon’ble Adjudicating Authority, a total amount due and payable to plaintiff in terms of the resolution plan was Rs. 9,39,756/- (Rupees Nine Lakh Thirty Nine Thousand Seven Hundred and Fifty Six Only). That total amount of Rs. 4,48,720/- (Rupees Four Lakh Forty Eight Thousand Seven Hundred and Twenty Only) was payable to plaintiff in First Tranche and second payment of Rs. 4,91,035/- (Rs. Four Lac Ninety One Thousand Thirty five only) was due and payable at second tranche as per the resolution plan. That payment of the first tranche has already been done to the plaintiff through RTGS dated 10.10.2023. The second installment of payment shall be made at the second tranche accordingly.”

7. According to the RP, the Resolution Plan has now been finalized and the successful resolution applicant—the consortium consisting of M/s Kapivar Finlease Pvt. Ltd., M/s Har-Anand Publications Pvt. Ltd., and M/s Agbros Fincap Pvt. Ltd.—has been accepted.

8. The Id. Counsel for the Plaintiff Mr. Saif Khan submits that the present matter would no longer survive and suggests that the suit may be disposed of in light of the facts stated in the RP’s application. However, he may be given liberty at any stage in future, if there is a change of circumstances, he may be permitted to revive the entire claim.



9. Accordingly, the present suit is disposed of with liberty as prayed for. All pending applications are also disposed of. The next date of hearing i.e. 21st May, 2024 before the Joint Registrar stands canceled.

10. In view of the facts and circumstances of the case, the full Court Fee is directed to be refunded to the Plaintiff through Id. Counsel.

PRATHIBA M. SINGH, J.

MAY 9, 2024/dk/dn