

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMM. ARBITRATION PETITION NO. 764 OF 2024

Profectus Capital Pvt Ltd .. Petitioner
Versus
Compuage Infocom Ltd thr RP and .. Respondents
ors

WITH
INTERIM APPLICATION NO.3343 OF 2024
IN
COMM. ARBITRATION PETITION NO. 764 OF 2024
WITH
INTERIM APPLICATION NO..3708 OF 2024
IN
INTERIM APPLICATION NO.3343 OF 2024

Compuage Infocom Ltd thr IRP .. Applicant
In the matter between
Profectus Capital Pvt Ltd .. Petitioner
Versus
Compuage Infocom Ltd and ors .. Respondents

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Mr. Naushad Engineer with Manish Gala and Minil Shah i/b Nilesh Gala for the Petitioner.
Mr. Phiroze Colabawalla with Rajvi Sheth i/b Interjuris for the applicant/original respondent no.1 in IA No. 3343 of 2024.
Mr. Harshavardhan G. Khambete for respondent no.4.
Mr. Amit Gharte i/b Swarup Patil for respondent no.5.

CORAM: BHARATI DANGRE, J.

DATED : 14th NOVEMBER 2025

P.C:-

1. The petition filed under Section 9 of the Arbitration and Conciliation Act, 1996, by the petitioner seek certain interim measures pending hearing and disposal of the arbitration proceedings and making of the arbitral award and till its execution and this includes the deposit of an amount due to the petitioner with interest as payable under the Facility Agreement dated 20/08/2020 read with Deed of Guarantee as well as Deed of Hypothecation dated 20/08/2020.

2. Heard respective counsel for the petitioner and the respondents in support and in opposition of the reliefs in the petition along with the interim applications.

3. The respondent nos.1 to 3 herein jointly approached the petitioner and applied for a Purchase Invoice Discounting credit facility for a sum of Rs. 5 Crores. On 13/08/2020, a sanction letter was issued by the petitioner in favour of the respondent nos.1 to 3.

On 20/08/2020, a Facility Document and a Hypothecation Agreement and a Deed of Guarantee came to be executed by the respondent nos.1 to 3 in favour of the petitioners.

4. The petitioner had renewed the credit facility from time to time and ultimately the statement of account disclosed that as on

30/08/2023 a sum of Rs.5,46,86,521/- (Rupees Five Crores Forty Six lakhs Eighty Six Thousand Five Hundred Twenty One) was due and payable to the Petitioner. The cheques for repayment were dishonored and on the 10/04/2023 and 20/04/2023 demand notices were issued to the respondent nos.1 to 3. Ultimately on 01/09/2023, the present petition under section 9 of the Arbitration and Conciliation Act, 1996 came to be filed before this Court by which the claim of the petitioner was sought to be secured.

5. On 07/09/2023 an order came to be passed by this Court that the respondent nos.1 to 3 owed about 5.46 Crores to the petitioner and that the respondent nos.1 to 3 appeared to be in serious financial crisis and respondent nos. 4 & 5 were directed to deposit Rs. 2.5 Crores each as security for the petitioner's claim.

6. On 02/11/2023, the NCLT passed an order in Company Petition No. CP (IB) 329/MB/2023 ("Company Petition), admitting respondent no.1 to Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code, 2016.

The petitioner herein has filed Interlocutory Application No. 2109 of 2025 under Section 65 of the Insolvency and Bankruptcy Code before the NCLT, Mumbai, 2016 for recall of the Order dated 02/11/2023, passed in company petition, admitting the respondent no.1 to CIRP, on the grounds that the

order dated 02/11/2023 has been obtained by playing a fraud upon the Ld. NCLT, in as much as, the Inter corporate Loan Agreement dated 2/08/2021, which forms the basis of the Section 7 Petition, is an unregistered document executed on Rs. 500/- Stamp Paper No. BX-558797 (“said Stamp Paper”). The said Stamp Paper is purportedly dated 13/07/2021.

However, based on the response by the office of the Registration and Stamps Department issued on 11/12/2024 and 19/12/2024 to the RTI applications filed by the petitioner, the petitioner was shocked to learn that the said Stamp Paper was issued by the Department to Stamp Vendor (Jyoti P. Dooa) on 28/02/2023.

Pursuant thereto the petitioner has filed a police complaint with the Economic Offences Wing and Ghatkopar Police Station on the 29/01/2025 and a complaint with the SFIO on the 27/02/2025.

Subsequently, the petitioner’s application under Section 65 of the Insolvency and Bankruptcy Code, 2016 was filed on 17/06/2025 before the NCLT.

7. In the wake of the aforesaid facts, I deem it appropriate to pass the following order, which would result in disposal of the proceedings in form of petition as well as interim applications.

- i. Interlocutory Application No. 2109 of 2025 filed by the petitioner before the NCLT, Mumbai under section 65

of the Insolvency and Bankruptcy Code, 2016 is agreed to be heard and decided as expeditiously as possible and the parties agree that they will not seek any unnecessary adjournment.

ii. The monies deposited/directed to be deposited as security for the petitioner's claim as set out in paragraph 9 and 15 of the order dated 7/09/2023, shall be deposited with the CIRP Account of Corporate Debtor at Mumbai and will be earmarked separately and shall be subject to the outcome of the proceedings under the IBC, 2016.

iii. This Court has not expressed any opinion on the aspect of the alleged fraud in the invocation of the CIRP. This is without prejudice to the rights and contention of the parties in the criminal proceedings filed by the petitioner and even the rights and contentions of respondent no.4 and 5 are kept open.

8. Arbitration Petition along with Interim Applications stands disposed of.

(SMT. BHARATI DANGRE, J.)