

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH – I
KOLKATA**

Comp. Appeal No. 1484/KB/2020

In

C.P. No. 495/KB/2018

An application under section 71(10) and 73(4) & 74(3) of the Companies Act, 2013

In the matter of:
Binod Kumar

...Petitioner

Versus

1. PrayagInfotech Hi-rise Limited
2. ArunavaGanguly, residing at mohalla – 42, Fakir Para Road, Behala, Kolkata – 700034
3. Laxmi Kant, residing at Vajid Ali Lane, Urdu Bazar, Bhagalpur, Patna, Bihar – 812002
4. Raj Kumar Chakraborty, Heritage Security & Investigation Services, 44/117/2, Kalipada Mukherjee Road, Kolkata – 700008.
5. The Branch Manager, PrayagInfotech Hi-rise Limited, Shanti Residency, 3rd Floor, sahyog Marg, Exhibitin Road, Patna.
6. Vivekanand Singh (CDA), S/o, Raj Mani Singh, resident of jay Prakash Nagar, P.S.-Jakkanpur, Patna.
7. Uttam Gupta, resident of mohalla - Shivpur Colony, Isaqchak, Bhagalpur.
8. Md. Nissar Ahmad, resident of mohalla:-
9. Vajid Ali Lane, Urdu Bazar, Bhagalpur.
10. Dr.Arun Kumar Singh, Hari Om JanchGhar, IOC Road, Sipara, Patna.
11. The Office of Registrar, Ministry of Corporate Affairs, “NIZAM PALACE”, 2nd M.S.O.Building, 2nd Floor, 234/4, A.J.C. Bose Road, Kolkata – 700020.

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12. The Regional Director of West Bengal & Sikkim, Reserve Bank Of India, 15, N.S. Road, Kolkata – 700001.
13. Securities And Exchange Board of India, Sebi Bhawan, Plot No.- C-4 'A', 'G-Block', Bandra Kurla Complex, Bandra (East), Mumbai – 400051.
14. Central Bureau of Investigation, Head Office, Plot No. 5 – B, CGO Complex, Lodhi Road, New Delhi – 110023.
15. The Inspector General of Police, Economic Offences Unit, Dr. Srikrishna Singh Path, Baily road, Patna-800001 (Bihar).

...Respondents

Date of hearing: 19.05.2022

Date of pronouncement: 08.06.2022

Coram:

Shri Rajasekhar V.K.

: Member (Judicial)

Shri Balraj Joshi

: Member (Technical)

Appearances (through video conference/physical hearing):

Mr. P.K. Dutt, Adv.

: for SEBI

Mr. Syamantak Banerjee, Adv.

:

Mr. S.K. Dutt, Adv.

:

ORDER

Balraj Joshi, Member (Technical)

1. The court convened *via* hybrid mode.
2. This is an Application by Mr. Binod Kumar (**'Applicant'**), who seeks an order for execution of the order dated 31 January, 2020 by this Tribunal. The amount involved for recovery is a sum of ₹13,20,000/- (Rupees Thirteen Lakh Twenty Thousand only) plus interest thereon @9%.
3. On 31 January, 2020 the Applicant had obtained a decree from this tribunal under section 73 (4) of the Companies Act, 2013, wherein, this Tribunal had directed the Company i.e., the Respondent No.1 to repay the maturity value of the amount deposited by the applicant with the Company. Thereafter, on 19 February, 2020 and 24 February, 2020 the applicant approached and intimated

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*Comp. Appeal No.1484/KB/2020 In
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the judgment debtor i.e., the respondent No.1 along with other respondents about the order of this Tribunal but no action actions were taken by the respondents.

4. We have considered the submissions made on behalf of the applicant and also perused the record.
5. Section 71(10) stipulates the conditions under which the Tribunal may direct the Company to redeem the debentures. The conditions as indicated are that the Company should have either failed to redeem the debentures on the date of their maturity or failed to pay the interest thereon on their due date. The other conditions to be satisfied before the Tribunal passes an order is that the Tribunal is required to hear the parties concerned. In the present case, the respondents have not chosen to appear before this Tribunal in spite of opportunities granted.
6. In *Akhil R. Kothakota and another v. M/s Tierra Farm Assets Company Pvt. Ltd.* (Company Appeal (AT) No.39 of 2020 decided on 09.11.2020), the Hon'ble NCLAT has held that section 71(10) provides a clear mechanism for issue and repayment of debentures, including enforcement of payment obligations. Once the factum of default is established, this Tribunal is obligated to pass an order in terms of section 71(10) of the Act. This will be in addition to any action that SEBI may take against the company and its promoters and directors under SEBI Act,1992.
7. In this view of the matter, this Tribunal hereby directs the repayment of deposits of ₹13,20,000/- (Rupees Thirteen Lakh Twenty Thousand only) plus interest @9% within a period of three months from the date of pronouncement of this order. The Applicant is also entitled to a cost of ₹25,000/- (Rupees Twenty Five Thousand only) to be payable by the Respondent No. 1.
8. *Comp. Appeal No.1484/KB/2020* in *C.P. No. 495/KB/2018* shall stand disposed of accordingly.

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KOLKATA BENCH – I

Comp. Appeal No.1484/KB/2020 In
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9. Certified copy of the order may be issued, if applied for, upon compliance of all requisite formalities.

BALRAJ
JOSHI

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Balraj Joshi
Member (Technical)

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Rajasekhar V.K.
Member (Judicial)