

**SPECIAL BENCH**

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH, KOLKATA**

**Cont. A. (IB) No. 694/KB/2020**

**In**

**CP(IB) No. 182/KB/2017**

**In the Matter of:**

**M/s. Gujarat NRE Coke Limited (In Liquidation) represented by the Liquidator Mr. Sumit Binani.  
...Corporate Debtor**

**And**

**In the Matter of:**

**Mr. Sumit Binani, Liquidator  
... Applicant**

**Versus**

**Mr. Arun Kumar Jagatramka & Ors.  
...Respondents**

**Counsel appeared through Video Conference:**

1. Mr. Mr. Krishnaraj Thaker, Advocate ] For the Applicant
2. Ms. Ujjaini Chatterjee, Advocate ]
3. Mr. Sumit Binani, Liquidator ] Self

1. Mr. Moti Sagar Tiwari, Advocate ] For the Respondents
2. Mr. Sailendra Kumar Tiwari, Advocate ]

1. Mr. Ajay Gaggar, Advocate ] For the Lender

**Present: Shri Madan B Gosavi, Hon'ble Member (Judicial)**

**Shri Harish Chander Suri, Hon'ble Member (Technical)**

**Date of Order: 09/09/2020**

**ORDER**

1. Liquidator of Gujarat NRE Coke Limited, Mr. Sumit Binani, has filed this **Cont.A(IB) No.694/KB/2020 in CP(IB) No.182/KB/2017** against the respondents alleging disobedience of the orders dated 17/07/2020 and 14/08/2020 passed by this Adjudicating Authority.

2. Ld. Counsel for the Liquidator submits that an unnumbered application filed by the Liquidator u/s. 19(2) read with Section 34(3) of the Insolvency and Bankruptcy Code, 2016, against the officials/employees of the Corporate Debtor was heard on 17/07/2020 and upon hearing this Adjudicating Authority was pleased to pass the following orders:-

*“(i). The respondents, including the members of erstwhile board of directors, and other key personnel associated with the management of the corporate debtor shall extend all assistance and cooperation to the Liquidator as may be required by him in managing the affairs of the corporate debtor;*

*(ii) The respondents and/or the owner of the premises, whosoever is in possession of the keys of the registered office premises, shall hand over the keys to the Liquidator immediately, as and when required by the Liquidator;*

*(iii) The respondents shall depute at least 20% of their skeleton staff/officers/officials, on rotational basis, who are conversant with their respective jobs, for running the office and for providing full cooperation and assistance to the Liquidator;*

*(iv) The remaining staff shall work from home and provide all assistance to the Liquidator as when required;*

*(v) The liquidator shall provide all the basic facilities to the staff attending the office or work from home, as the case may be in accordance with the guidelines issued by Government during the period of lockdown;*

(vi) *In case any of the staff refused or fails to attend the office or work from home or provide necessary cooperation, as the directions of the Liquidator, the Liquidator shall be free to cut his proportionate salary/wages, as per the applicable rules;*

(vii) *In case of failure to comply the directions from the side of the respondents, the Liquidator shall be at liberty to move an application for initiating action under the Contempt of Courts Act.”*

3. Ld. Counsel for the Liquidator also submits that an another unnumbered application filed by the Liquidator u/s. 19(2) of the Insolvency and Bankruptcy Code, 2016, against M/s. Surajbari Traders Private Limited and others was heard on 14/08/2020 and upon hearing this Adjudicating Authority was pleased to pass the following orders:-

*“(i) The respondents shall hand over a complete set of keys to the Liquidator to enable him to have an access to the registered office premises of the company any time, without any interruption or interference by the respondents or any one else at their behest;*

*(ii) The respondents, however, shall have an access to that part of the premises which are being occupied or used by the other group companies;*

*(iii) The respondents shall make their own arrangements for safeguarding and preservation of all their papers and the records of other group companies, at their own costs and responsibility, either by employing a dedicated employee/security guard for that purpose. They shall not be entitled to raise any allegation in that regard against the Liquidator or any of the persons employed or deployed by the Liquidator;*

*(iv) In case the set of keys are not handed over to the Liquidator, the Liquidator is free to approach the Superintendent of Police of the area concerned , where the registered office of the company is located, who shall provide all necessary help and protection to the Liquidator in having the Lock(s) broken and replaced with new locks, without any delay;*

***In addition to the above directions, the respondents are issued a Show cause notice, as to why Rule Nisi be not issued against them returnable on 09/09/2020. All other applications filed by the parties to be heard on merit. Parties are directed to file reply affidavit by way of e-filing by serving copy to other sides within one week. Rejoinder if any to be filed before the date of hearing”***

4. Ld. Counsel for the Liquidator submits that in spite of the aforesaid directions respondents have not handed over the complete set of keys to the Liquidator thereby deliberately violated the directions given by this Adjudicating Authority vide order dated 14/08/2020. It is also submitted that R-2 and R-3 have filed appeal before the Hon'ble NCLAT but no stay was granted. Also R-1 has also filed Revision Petition before the Hon'ble High Court at Calcutta and no stay was granted.

5. During the course of hearing it was suggested by the parties that a clear picture would be brought before this Adjudicating Authority if a Special Officer is appointed, to visit the premises with advance intimation to the parties. We therefore, appoint two Special Officers, namely, Mr. Sidharta Basu, Advocate (contact no. 9903735892 and email id: sidharta.basu@gmail.com) suggested by Ms. Ujjaini Chatterjee, Adv. on behalf the Liquidator and Mr. Kamal Prakash Singh, CA (IBBI/IPA-001/IP-P-01722/2019-2020/12653) suggested by Mr. Moti Sagar Tiwari, Advocate on behalf of the Respondents in I.A. No. 694/KB/2020 as Special Officers to perform the above duties with the help of an architect/draughtsman of their choice. The parties will pay the fees of Special Officers suggested by each one of them. The Special Officers will understand the situation on the spot and give their report to this Adjudicating Authority within a period of 2 weeks. They will be free to take the help of an architect/draughtsman to take measurements of various office rooms involved in this controversy and he may also suggest whether an independent office can be carved out from the undivided office space for the use of the Liquidator and the staff working with the company in liquidation so that Liquidator may complete the Liquidation Process comfortably without any interference or disturbance, at the earliest. The fees of the architect and other out of pocket expenses will be borne by the parties in equal proportion.

6. Heard both sides. Perused the records. It appears that the matter requires a detailed hearing for an overall view of the situation. Therefore, we are giving them further time for a detailed hearing, before taking any coercive steps in this matter. Hence, list the matter on 14/10/2020. In the meantime, the parties are directed to complete their pleadings by exchanging affidavit-in-reply and rejoinder without fail.

7. The Registry is directed to send e-mail copies of the order forthwith to all the parties inclusive of the Counsel.

**(Harish Chander Suri)**  
**Member (Technical)**

**(Madan B. Gosavi)**  
**Member (Judicial)**

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