

**BEFORE THE COMMITTEE CONSTITUTED UNDER THE
BOMBAY HIGH COURT ORDER DATED 2nd SEPTEMBER 2014
IN SUIT NO. 173 OF 2014 AND OTHER RELATED SUITS
COMPRISING OF MR. JUSTICE V.C.DAGA (RETD.) [CHAIRMAN],
MR. J.S.SOLOMON, ADVOCATE AND SOLICITOR [MEMBER]
AND
MR. YOGESH THAR, CHARTERED ACCOUNTANT [MEMBER]**

MODERN INDIA LIMITED & ORS ..PLAINTIFFS

Versus

FINANCIAL TECHNOLOGIES (INDIA) LTD.

AND OTHERS ..DEFENDANTS

APPEARANCES:

Mr. Ameet Naik, i/b Naik, Naik and Co. with Ms. Anuja Jhunjhunwala, Mr. Abhishek Kale, Mr. J. S. Khattav and Ranju Yadav, Advocates for NSEL

Mrs. Sucheta Panickerr, Mr. Amol Bavare, Mr. Joseph Massey, Mr. Manmohan Anand, Mr. Vishal Pokarne for NSEL

Mr. Ravi Warriar with Ms. Hiral Thakkar, Adv i/b Federal and Rashmikant for plaintiff in Modern suit

Mr. Bhushan Shah with Ms. Namrata Shah, Advocates i/b Mansukhlal Hiralal and Co. in L. J. Tanna suit

Mr. Sanjay Kadam, A.C.P. with Mr. Dattatraya Patil, PSI., Mr. Bharat Bhoite, Mr. Prasad Satam , Mr. Ramchandra Lotlikar, P.Is. present.

Mr. C.A. Athari, Advocate and Mr. Jigan Jani, Advocate i/b M/s. Sunil and Co. for Whitewater Foods Pvt. Ltd.

Mr. Sonali Sable i/b Lala and Lala for Shirish Bedigiri.

Ms. Shreema Doshi, Advocate i/s Wadia Gandhi & Co for Alok Jalan and Shilpa Jalan.

Mr. Yusuf Iqbal, Advocate with Ms. Shgasyta Pathan and Mr. Abdul RTehman, Advocate for Prime Zone.

Mr. Kirit V. Shah, Mr. Dilip Shah, Investors, Mumbai.

Ms. Nidhi Shukla with Mr. Parth Sehan for NAARA

Mr. Rakesh K. Singh Advocate for IDBI Bank.

Mr. Uday Tardalkar for AMMI/ BBICCPAI

Mr. Navrit Kumar Goel, Advocate for P.D. Agro Processors
Mr. Rajesh Mehta, representative of Swastik Trading Co.
Mr. Virendra Ichalkaranjkar, Advocate for Namdhari Foods Ltd.

ORDER SHEET NO.17 A

(Dated 22nd January, 2015)

1. Nobody is appearing on behalf of M/s. Swastik Trading in spite of repeated requests.
2. Mr. Naik appearing for NSEL brought to our notice that NSEL has obtained decrees against M/s. Swastik Overseas Corporation, M/s. Kisan Overseas Ltd., M/s. Rajesh Mehta and Co., and M/s. Manan Agro on 18th December, 2014. In this view of the decree, the properties of Proprietor Ms. Falguni Rajes Mehta can always be proceeded with by way of execution of decree since she is the proprietor of M/s. Swastik Overseas Corporation.
3. We thus recommend to the Hon'ble High Court that this is fit case for appointment of Receiver with a direction to ascertain the properties so as to realize the sale proceeds of the properties, the details of which are to be supplied by NSEL to the Hon'ble High Court.
4. Mr. Kadam appearing for EOW has brought to our notice that Shri Rajesh Babulal Mehta was released on bail under order dated 9th July, 2014 passed by the designated Court under MPID Act in bail application No.20 of 2014 in MPID Special Case No.1 of 2014 in C.R. No.89 of 2013 lodged at EOW Unit V.
5. It is also brought to our notice that Shri Rajesh Mehta has not complied with the bail conditions particularly Condition No.4 of the operative order where under bail is granted to him. He was directed to strictly adhere to the undertaking given by him vide Exhibit 3, failing which the bail of Rajesh Mehta was ordered to be cancelled automatically.

6. No material is placed before us to show that he has complied with the aforesaid condition. In spite of notice issued to him, he has chosen to remain absent before the Committee. In the circumstances, we recommend to the Hon'ble High Court to issue directions to the EOW to move an application for cancellation of bail since Mr. Mehta has breached the terms and conditions of bail granted to him.

7. Various debtors of M/s. Swastik Trading were issued notices to appear before this Committee. One of such noticees M/s. Madhu Refils and Chemicals Ltd. have sent a letter dated 16th January, 2015 informing this Committee that no such payment is due and payable by them to M/s. Swastik Overseas Corporation. However, they have requested to seek the ledger account maintained by M/s. Swastik Overseas Corporation in respect of M/s. Madhu Refils and Chemicals Ltd., so as to find at whether any of the amount is recoverable from them. In the circumstances, M/s. Swastik Overseas Corporation is directed to produce the ledger account of M/s. Madhu Refils and Chemicals Pvt. Ltd. before this Committee. At the same time, M/s. Madhu Refils and Chemicals is also directed to produce ledger account of Swastik Overseas Corporation maintained by them in their books of account, so as to enable the Committee to reconcile the same.

8. Ms. Sonali Sable, Advocate i/b Lala and Lala appearing for Shri Bedgiri sought time to file his say since he is abroad.

9. Mr. Alok Jalan and Mrs. Shilpa Jalan appeared through their Advocate Ms. Shreema Doshi i/b Wadia Gandhi and Co. and filed the affidavits; wherein both of them have admitted that they have availed the long term loan of Rs.50,00,000/- from M/s. Swastik Overseas Corporation. The Bank account is produced to show that the amount was received by them.

10. Similarly, Mr. Alok jalan has also filed his affidavit admitting therein that long term of Rs.50,00,000/- was obtained from M/s. Swastik Overseas Corporation. In support of that Bank statement is filed on record.

11. From the affidavits and documents filed on record, it is not in dispute that both of them have borrowed Rs.50,00,000/- each from M/s. Swastik Overseas Corporation and as such the said amount is liable to be refunded by them. In turn, the said amount is liable to be credited to the Escrow account of NSEL maintained with Axis Bank. Since there is no dispute with regard to the borrowings made, we recommend the Hon'ble High Court to issue necessary directions directing Mr. Alok Jalan and Ms. Shilpa Jalan to deposit the amount borrowed by them with interest and transfer the said amount to the escrow account of NSEL with Axis Bank. NSEL is directed to take appropriate action in this behalf.

12. Ms. Shgasyta Patha, Advocate for Prime Zone Developers requested for time to respond to the Notice issued by the Committee. Accordingly, time is granted to Prime Zone Developers to file their response on amounts claimed from them on account of M/s. P.D. Agroprocessors Pvt. Ltd., Mohan India Pvt. Ltd. and Swastik Overseas Corporation under agreement dated 10th December, 2013 between NSEL and Prime Zone Developers by the next date i.e., 18th February, 2015 at 2:00 pm.

13. It is needless to mention that lot many debtors of M/s. Swastik Overseas Corporation were issued notices to appear before this Committee, however, most of them chose not to appear. In the circumstances, NSEL can obtain Garnishee Notices against them in accordance with Law.

14. Ms. Sonali Sable, Advocate has to file affidavit of her client on the next date of hearing i.e. 18th February, 2015 and appear before this Committee at 2.00 p.m.

15. Mr. Rajiv Todi has not been appearing before this Committee in spite of repeated directions. EOW has informed that he is absconding. In the circumstances, we recommend to the Hon'ble High Court to issue notice directing him to appear before the Committee. EOW is directed to bring this fact to the notice of MPID Court in the event any application for anticipatory bail is moved by him.

S. O. to 18th February, 2015 at 2.00 p.m.


JUSTICE V.C.DAGA (Retd.)
CHAIRMAN


J.S.SOLOMON
ADVOCATE & SOLICITOR
MEMBER

YOGESH THAR
CA
MEMBER