

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE T.R.RAVI

Friday, the 12<sup>th</sup> day of April 2024 / 23rd Chaithra, 1946

WP(C) NO. 25934 OF 2022

PETITIONER:

C.A. JASIN JOSE, LIQUIDATOR OF M/S ATLAS GOLD TOWNSHIP PONMATTOM,  
MADASSERY, MOOKKANOUR P.O. ANGAMALY, KOCHI -683577.

RESPONDENTS:

1. DIRECTORATE OF ENFORCEMENT, REPRESENTED BY DEPUTY DIRECTOR OF ENFORCEMENT MINISTRY OF FINANCE, COCHIN ZONAL OFFICE KANOOOS CASTLE, A.K. SESHADRI ROAD (MULLASSERY CANAL ROAD WEST) COCHIN -682011.
2. SOUTH INDIAN BANK LTD., REPRESENTED BY ITS CHIEF MANAGER HAVING ITS REGISTERED OFFICE AT SIB HOUSE, TB ROAD, THRISSUR- 690 001.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay the operation and implementation of Exhibit P-4 to the extent that it attaches the properties of Atlas Gold Township Pvt. Ltd. covered by Exhibit P-5 and all actions and proceedings pursuant to and in furtherance thereof forthwith, pending disposal of present Writ Petition.

This petition coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S G.HARIKUMAR (GOPINATHAN NAIR) and AKHIL SURESH, Advocates for the petitioner, SRI. JAISHANKAR V. NAIR, CENTRAL GOVERNMENT COUNSEL for R1 and of M/S. SUNIL SHANKER, VIDYA GANGADHARAN, SANDHRA.S., Advocates for R2, the court passed the following:

P.T.0

**Exhibit P4:- A TRUE COPY OF THE ORDER BEARING NO.PAO NO.03/2022  
DATED 06.04.2022.**

**Exhibit P5:- A TRUE COPY OF THE LIST OF SCHEDULE OF PROPERTY.**



**T.R RAVI, J.**

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W.P. (C) No.25934 of 2022  
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*Dated this the 12<sup>th</sup> day of April, 2024*

**O R D E R**

The petitioner is the Liquidator of M/s. Atlas Gold Township (India) Private Limited, which is corporate debtor in the proceedings before the National Company Law Tribunal (NCLT). Liquidation proceedings have already been initiated. Pending the liquidation proceedings, the property has been attached at the instance of the Enforcement Directorate. The Liquidator has approached this Court stating that the Liquidator is not able to proceed because of the attachment and the entire proceedings before the NCLT has effectively come to a stand-still. The petitioner hence requests for an interim order permitting the sale to take place as part of the liquidation process, after lifting the attachment order issued by the Enforcement Directorate.

2. Reliance is placed on the judgments of the High Court of New Delhi in ***Rajiv Chakraborty Resolution Professional of***

***EIEL v. Directorate of Enforcement [2022 SCC OnLine Del.3703]*** and that of the High Court of Gujarat in ***AM Mining India Private Limited v. Union of India (Special Civil Application No.808 of 2023)*** to submit that the where the insolvency proceedings had been started even before the attachment is ordered by the Enforcement Directorate, the proceedings before the NCLT will have to prevail over the proceedings of the Enforcement Directorate. The Court had interpreted the *non obstante clause* in the two enactments. I do not propose to go into the merits of the said contention. However, I am of the opinion that the interest of the parties can be safe guarded pending this litigation by permitting the sale to go on and ensuring that the proceeds of the sale shall be liable for attachment by the Enforcement Directorate.

In the above circumstances, there will be an interim direction to lift the attachment effected by the Enforcement Directorate on the properties which are subject matter of the liquidation to facilitate the Liquidator to sell the properties. The above order is on a condition that the Liquidator shall ensure that the proceeds of the sale are retained in the account and the attachment which had been

ordered by the Enforcement Directorate will continue to be effective on the said proceeds of the sale. The representatives of the Enforcement Directorate will also be kept informed of the details of the proposed sale. This order is also justified in view of the interim order which have been issued by the Hon'ble Supreme Court in ***Ashok Kumar Sarawagi v. Enforcement Directorate and Another[SLP(C)No.30092/2022]***.

H/o

AMR



Sd/-  
**T.R RAVI  
JUDGE**