

## BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

## PRINCIPAL BENCH, NEW DELHI

## ORIGINAL APPLICATION No. 771/2022

IN THE MATTER OF:

Nishant Bhargav

... Applicant

**Versus**

State of Uttar Pradesh &amp; Anr.

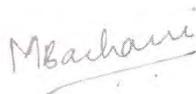
.... Respondent(s)

INDEXNDoH: 18.03.2024

S.No.	Particulars	Page No.
1.	Additional Affidavit on behalf of Jaypee Infratech Ltd. through its Implementation and Monitoring Committee in O.A. No. 771/2022.	2-6
2.	<u>ANNEXURE R/1 [Colly]</u> - Copy of Photographs of the completed STP-2 along with Video of STP-2 in operation.	7-14
3.	Proof of Service	15.

Place: New Delhi

Date: 13.03.2024

**DRAWN & FILED BY:**

Mansi Bachani, Sonali Sengupta & Arushi Malik  
Advocates for the Respondent No. 4,

29, LGF, Presidential Estate,

Nizamuddin East, New Delhi- 110013

Email: sonali@eldfindia.com +91- 9050622741

**SETTLED BY:**

Shri Sanjay Upadhyay

*Senior Advocate*

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION No. 771/2022



IN THE MATTER OF:

Nishant Bhargav

... Applicant

**Versus**

State of Uttar Pradesh & Anr.

.... Respondent(s)

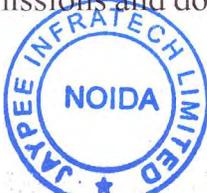
ADDITIONAL AFFIDAVIT ON BEHALF OF JAYPEE INFRATECH LTD. THROUGH ITS IMPLEMENTATION AND MONITORING COMMITTEE IN O.A. NO. 771/2022

**MOST RESPECTFULLY SHOWETH-**

I, Apoorva Pragya, authorized signatory authorised by the Implementation & Monitoring Committee of Jaypee Infratech Limited having its registered office at Sector 128 Noida, do hereby take oath and state as under: -

1. I state that this Hon'ble Tribunal is presently seized of the above-mentioned Original Application filed by one, Mr. Nishant Bhargava, a resident of the Kensington Park-1 Plot Phase-1, Sector-133, against Jaypee Infratech Ltd. (JIL), alleging violations as under Construction and Demolition Waste Management Rules, 2016, and the Water (Prevention and Control of Pollution) Act, 1974, in the Jaypee Infratech Green Wish Town Project, which is an integrated township at Sectors 128, 129, 131, 133, 134 and 151, Noida, spread over an area more than 40 million sq. mtrs.

2. I state that through instant Affidavit, the Project Proponent/ answering Respondent is seeking the liberty of this Hon'ble Tribunal to place on record certain additional submissions and documents apprising this Hon'ble Tribunal



22

of the latest development made towards the development of the Sewage Treatment Plant-2 (STP-2) within the Jaypee Infratech Green Wish Town Project, which is the primary subject matter of the present case. That the said submissions further substantiate that the allegations as imposed by the Applicant in the present case do not suffice and are liable to be set aside and thus are relevant for holistic adjudication of the present matter.

**Additional Submissions**

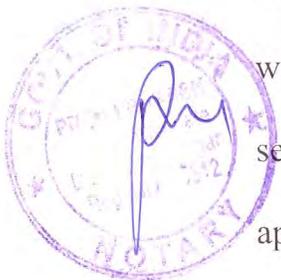
3. I state that this Hon'ble Tribunal is already well aware through our earlier submissions that JIL was undergoing Corporate Insolvency Resolution Process (hereinafter referred to as, "**CIRP**") under the Insolvency and Bankruptcy Code, 2016, (hereinafter referred to as "**The Code**") vide Order dated 09.08.2017 passed by the Hon'ble Adjudicating Authority, National Company Law Tribunal, Allahabad Bench.
4. I state that the Hon'ble National Company Law Tribunal, Principal Bench, New Delhi (hereinafter referred to as "**NCLT**") vide Order dated 07.03.2023 duly approved the Resolution Plan dated 07.06.2021 read with addendum dated 09.06.2021, and directed to implement and execute the directions of the said Order. In terms of the above order, an Implementation and Monitoring Committee (hereinafter referred to as, "**IMC**") has been formed to manage the affairs of the Company and to take all the necessary steps for the expeditious implementation of plan as per the approval.
5. I state that post the formation of IMC, the answering Respondent through its IMC in terms of the approved Resolution Plan has undertaken for timely



*AL*

completion of the construction work and to deliver homes to the 20,000 homebuyers as per the resolution plan.

6. I state that the answering Respondent through its IMC after making an enquiry with the employees and staff on taking the management, was informed about the whole structural change in design within the project and thereafter various consultants were engaged for drawing specifications and technical structures in the initial months to ensure timely completion of work.
7. I state that, the construction of the STP-2 had to be halted in November-December, 2023, due to the imposition of the Graded Response Action Plan imposed by the Commission on Air Quality Management for Delhi (CAQM) and NCR which restricted the answering Respondent from undertaking any construction of the STP-2 during the said periods. However, it is reiterated that till November 2023, the civil work for the construction of the STP-2 had been completed.
8. I state that subsequent to the revocation of the GRAP Orders in January, 2024, the answering Respondent with utmost diligence commenced with the pending construction including mechanical and electrical work of the STP-2 and the same has been completed. It is submitted that STP-2 is complete and will be operational in due course of time for the disposal of domestic sewerage. Additionally, the answering Respondent has already submitted an application for Consent to Operate of the STP-2 as under the Water Act (Prevention and Control of Pollution) Act, 1974, and the same will be functional and operational in due course of time. In addition, the answering Respondent has conducted trial run of the STP 2. Latest Photographs of the



STP-2 along with Video of the STP-2 in operation are marked and annexed as **Annexure R/1 [Colly]**.

9. I state that as such the answering Respondent through its IMC has taken all the necessary measures for the effective completion of the pending work in the interest of 20,000 homebuyers including the construction of the STP-2 in a reasonable time. Further, it submitted that the answering Respondent cannot be burdened with penalties on the violation(s) which are prior to the approval of the Resolution Plan and the same can only be attributed to the act(s)/omission(s) of the erstwhile management of the answering Respondent. The aforesaid position has been upheld by the Hon'ble Supreme Court in catena of judgments.
10. I state that as per Section 31(1) of the Code, 2016, any liability prior to the finalization of the Corporate Insolvency Resolution Process would stand extinguished from the date the Resolution Plan is approved. The said position has been supported by numerous decisions of the Hon'ble Supreme Court [*Ghanashyam Mishra and Sons Private Limited through the Authorized Signatory Vs. Edelweiss Asset Reconstruction Company Limited through the Director & Ors' [(2021) SCC OnLine SC 313]*, *Committee of Creditors of Essar Steel India Limited vs. Satish Kumar Gupta and Ors. [(2020) 8 SCC 531]*, which categorically state that on approval of the Resolution Plan by the NCLT under Section 31(1) of the Code, 2016, claims beyond the Resolution Plan of any claimant stand extinguished.



11. I state that in view of above, it is humbly submitted that all grievances of the Original Applicant pertaining to the ~~lack of~~ managerial management, if any, have



been and are being duly addressed by the IMC on best effort basis. Therefore, no liability can be fastened on the answering Respondent which has ensured the timely completion of the STP-2 in a reasonable time.

12. I state that the answering Respondent/ Project Proponent humbly prays that these submissions and documents be taken on record and seeks liberty to rely on the same during the time of arguments.

  
**DEPONENT** 

**VERIFICATION**

I, the above-named deponent do hereby verify that the contents of paras No. 1 to 12 of my affidavit are correct to my knowledge. Nothing material has been concealed therefrom and nor any part of it is false.

  
**DEPONENT** 

Place: New Delhi  
 Date: 13.03.2024

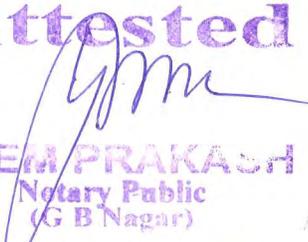
**DRAWN & FILED BY:**

*Mbachani*

Mansi Bachani, Sonali Sengupta & Arushi Malik  
 Advocates for the Respondent No. 4,  
 29, LGF, Presidential Estate,  
 Nizamuddin East, New Delhi- 110013  
 Email: sonali@eldfindia.com +91- 9050622741



**SETTLED BY:**  
 Shri Sanjay Upadhyay  
 Senior Advocate

**Attested**  
  
**PREM PRAKASH**  
 Notary Public  
 (G B Nagar)  
 13 MAR 2024

ANNEXURE R/1 [Colly]



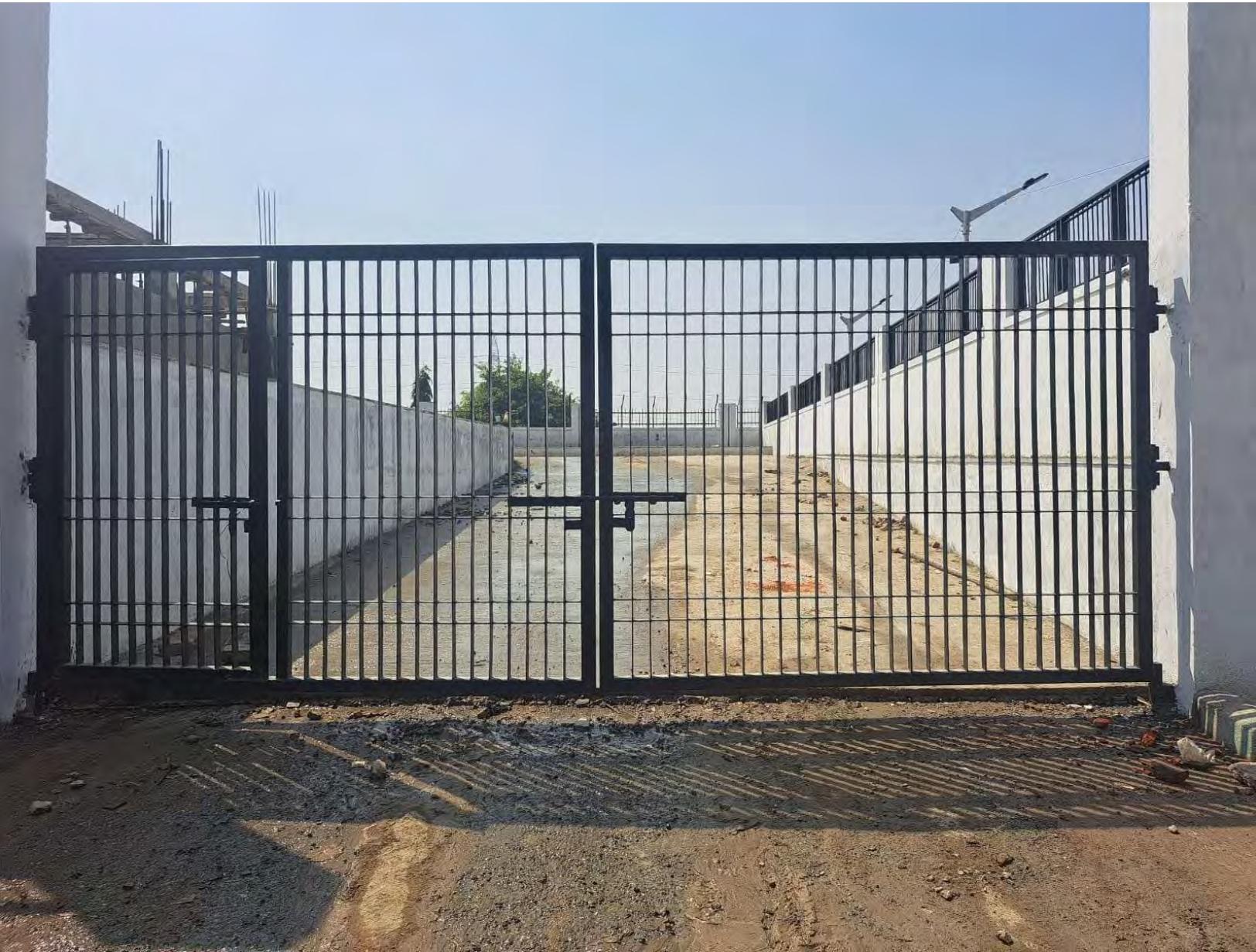












-TRUE COPY-

Videos of STP-2 in operation.

PEN DRIVE

Video- 1

Video- 2

Video- 3

-TRUE COPY-

---

**Service in Nishant Bhargava vs State of Uttar Pradesh & Anr. (O.A. No. 771/2022/PB)**

1 message

ELDF &lt;eldflegal@gmail.com&gt;

Wed, Mar 13, 2024 at 6:50 PM

To: pradeepmisra@yahoo.com, anandbhadola1979@yahoo.com, narendra\_kasana@rediffmail.com, bhanwar jadon &lt;bhanwar09jadon@gmail.com&gt;, Service@ukca.in

Cc: Mansi Bachani &lt;mansi@eldfindia.com&gt;, Sonali Sengupta &lt;sonali@eldfindia.com&gt;, Arushi Malik &lt;arushi@eldfindia.com&gt;

Respected Sir,

Please find the attached copy of the Additional Affidavit on behalf of Jaypee Infratech Ltd. through its Implementation and Monitoring Committee in O.A. No. 771/2022.

link to the videos:- [https://drive.google.com/drive/folders/1hA7E0Nqqd0QXMzrg3eDzZsR4qGQvLhnn?usp=share\\_link](https://drive.google.com/drive/folders/1hA7E0Nqqd0QXMzrg3eDzZsR4qGQvLhnn?usp=share_link)

*Thanks & Regards*

--

**Sameer Manher**

Clerk

Enviro Legal Defence Firm

29, Presidential Estate LGF,

Nizamuddin East New Delhi – 110013

Ph. No. 011-40573181

**Add. Affidavit.pdf**

4888K