

ITEM NO.2

COURT NO.6

SECTION X

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

Writ Petition(s)(Civil) No(s). 995/2019

NATIONAL SPOT EXCHANGE LTD.

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

([FOR DIRECTIONS]

IA No. 16646/2021 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 115989/2019 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 184128/2019 - INTERVENTION/IMPLEADMENT)

Date : 04-05-2022 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE M.M. SUNDRESH

For Petitioner(s)	Mr. Mukul Rohatgi, Sr. Adv. Mr. Sourabh Kirpal, Sr. Adv. Mr. Arvind Lakhawat, Adv. Ms. Diksha Rai, AOR Mr. Ankit Agarwal, Adv. Mr. Prateek Bhardwaj, Adv.
For Respondent(s)	Mr. K.M. Nataraj, Ld. ASG Mr. Annam Venkatesh, Adv. Mr. Zoheb Hussain, Adv. Mr. Samar Singh Kachwaha, Adv. Mr. Kanu Agrawal, Adv. Mr. Mukesh Kumar Maroria, AOR  Mr. Rahul Chitnis, Adv. Mr. Sachin Patil, AOR Mr. Aaditya A. Pande, Adv. Mr. Geo Joseph, Adv.
Intervener	Mr. Jayant Mehta, Sr. Adv. Ms. Sanjana Saddy, Adv. Mr. Bhushan Shah, Adv. Ms. Anindita Mitra, AOR
Intervener	Mr. Jayant Mehta, Sr. Adv. Ms. Sanjana Saddy, Adv. Mr. Bhushan Shah, Adv. Mr. Sanyat Lodha, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

IA No. 16646/2021 - APPROPRIATE ORDERS/DIRECTIONS  
IA No. 115989/2019 - APPROPRIATE ORDERS/DIRECTIONS

The applications are dismissed as withdrawn.

Writ Petition(s)(Civil) No(s). 995/2019

The limited contours of the controversy before us emanating from the present proceedings is the safeguarding of the interests of the investors/claimants.

In respect of the aforesaid, learned counsel for the petitioner had canvassed before us on 22.02.2022 that the way out would be that the properties attached by the respondent(s) are sold and monies brought into Court. This is in the context of decrees passed for the benefit of the petitioner where the same very properties which were attached were sought to be utilized to satisfy the claims. He thus, suggested that once the monies are brought in, even the claims of the petitioners/investors can be satisfied and one will know exactly what is the balance amount which remains as otherwise both the processes are going on at cross purposes even though the properties from which recoveries can be made are attached.

We thus, called upon the respondents to look into the aforesaid notwithstanding that the petitioner

may also be an organization which as been charged, concerned as we were with the investors' money and properties remaining attached simplicitor could not be the solution for investors' money for which decrees had been passed. It is only on liquidation of those properties could the monies be distributed to satisfy the claims of the investors.

We requested the parties to work out a scenario to sub-serve the aforesaid objective and a synopsis was filed on behalf of the petitioner setting out the relevant dates and suggesting solution for speedy recovery of victims annexing thereto the details of decrees, arbitral awards obtained by the petitioner and execution proceedings thereof.

The ground work has been done by the parties and more or less they were in agreement on most issues. The other remaining issues have also been ironed out during the Court proceedings.

In view of the aforesaid, we are inclined to exercise our powers under Article 142 of the Constitution of India with the objective of attaining a holistic solution for speedy recovery of the outstanding amounts to be distributed to be investors.

The agreed terms have been placed before us which are being incorporated in this order as under:-

“(i) A high powered committee of a Hon'ble Mr.

Justice (Retd.) [], who has consented for the same, is hereby constituted (hereinafter referred to as the "Supreme Court Committee"). The Supreme Court Committee may in its discretion, hold meetings/hearings at Mumbai.

(ii) The proceedings for execution of all the decrees/orders/arbitral awards listed in Annexure-1, particular of which are set out in Annexure-2, currently pending in various Courts across the country, are hereby transferred to the Supreme Court Committee, for speedy execution thereof.

(iii) Against 5 additional Defaulters, the Committee appointed by Bombay High Court has crystallised the liability and the report of the said Committee is pending acceptance before Bombay High Court, details whereof are set out in Annexure-3. In the event the petitioner is granted decree/order by Bombay High Court in any or all of these matters, then the petitioner shall be at liberty to file the proceedings for execution of such decrees/orders before the Supreme Court Committee, and the Supreme Court Committee shall have the power to execute such decrees/orders.

(iv) In proceedings where the petitioner has already obtained decrees/orders against the Defaulters, the petitioner is seeking further

decrees/orders against other persons as well. In the event the petitioner is granted decree/order by the Bombay High Court in any or all of these matters, then the petitioner shall be at liberty to file the proceedings for execution of such decrees/orders before the Supreme Court Committee, and the Supreme Court Committee shall have the power to execute such decrees/orders.

(v) The petitioner shall be at liberty to apply to this Hon'ble Court in case there are further decrees/orders/arbitral awards obtained by it against the Defaulters or any other person in relation to the NSEL payment default for the purposes of filing execution thereof directly before the Supreme Court Committee.

(vi) The Supreme Court Committee shall have all the powers of a civil court executing a decree or an order or an arbitral award under the Code of Civil Procedure, 1908 for speedy execution of the above decrees/orders/arbitral awards.

(vii) In execution of the above decrees/orders/arbitral awards, the Supreme Court Committee shall be entitled to sell the properties of the judgment-debtors notwithstanding the attachment thereof by respondent No.2(ED) under the PMLA and/or by respondent No.3 (State of

Maharashtra) under the MPID Act, to the extent of recovering the amount of the decree/order/arbitral award.

(viii) For the purposes of executing decrees/orders/awards to the extent they are not satisfied by recovery from the properties attached by the respondents or any of them as aforesaid, the Supreme Court Committee shall be at liberty to apply to this Hon'ble Court for suitable orders for attaching and/or liquidating properties of persons against whom decrees have been passed or of persons against whom the decrees can be executed as provided in the Code of Civil Procedure, 1908 or properties of persons to whom money trail from the judgment debtors has been traced by the respondents or any of them.

(ix) The Competent Authority appointed by respondent No.3(State of Maharashtra) has already opened an account with (a) Bank of India (for collection) and (b) AXIS Bank (for distribution). The sale proceeds so realized shall be deposited in either of these Bank Accounts at the discretion of the Supreme Court Committee.

(x) The Competent Authority appointed by respondent No.3 (State of Maharashtra) under MPID Act has invited claims from the victims and verified them

to check genuineness and entitlement thereof.

(xi) The Competent Authority appointed by respondent No.3 (State of Maharashtra) under MPID Act shall file a report with the Supreme Court Committee setting out the names of the claimants and the amount that is due and payable to each of them, for passing necessary orders/directions/re-verification, if required for equitable distribution of the sale proceeds to the victims from the accounts mentioned in Clause (ix) above.

(xii) The Supreme Court Committee shall be entitled to co-opt the services of such experts (such as Advocates, Chartered Accountants, Valuers etc.) and support staff as it may consider necessary for efficient and speedy execution of task assigned to it.

(xiii) Hon'ble Mr. Justice [] shall be entitled to fix such remuneration for himself and for other persons co-opted by him as he deems fit commensurate with the responsibilities assigned to them.

(xiv) In the first instance, the Competent Authority appointed by Respondent No.3(State of Maharashtra) under MPID Act shall bear all the expenses required to be incurred for the

functioning of the Supreme Court Committee, including but not limited to remuneration, fees, physical infrastructure etc. and shall keep proper accounts of the same.

(xv) As and when any monies are realised by the Supreme Court Committee in accordance with the process set out above, the Competent Authority appointed by respondent No.3 (State of Maharashtra) under MPID Act shall be reimbursed by this Hon'ble Court for the expenses incurred by it under paragraph (xiv) above on submission of proper accounts for the same.

(xvi) The Supreme Court Committee shall have liberty to apply to this Hon'ble Court for any further orders and/or directions as it may consider necessary for efficient and speedy execution of the task assigned to it.

(xvii) Any person aggrieved by an order and/or direction passed by the Supreme Court Committee shall be entitled to move this Hon'ble Court.

(xviii) All the parties and the authorities shall render all necessary assistance and cooperation to the Supreme Court Committee.

(xix) Needless to say that respondent No.2(ED) and/or respondent No.3 (State of Maharashtra) shall



continue to attach further properties of the defaulters as per the money trail found by them during investigation and inform the Supreme Court Committee of such further attachment. Upon receipt of such intimation, the Supreme Court Committee shall be entitled to liquidate such further attached properties of the defaulters after hearing them, but only to the extent necessary for satisfaction of the decree/orders/arbitral awards obtained by the petitioner against such defaulters."

We may note that insofar as the list of decrees, orders, awards and attachment against defaulters are concerned, we are not setting them out as part of the order though submitted as the annexure annexing along with the details of the execution proceedings as Annexure-2. The liability of the defaulters crystallized by the High Court Committee is pending before the Bombay High Court has been set out as Annexure-3. This material can always be placed before the high powered committee of an Hon'ble Judge appointed by this Court.

We may note that both the State of Maharashtra and Enforcement Directorate would naturally like to assist the Committee in all manners and the Committee will have the power to seek information from any one

and run its affairs as expeditiously as possible.

On further discussion in the Court it is agreed that a single Member Committee may be appointed who would have the assistance of all concerned.

With the consent of parties, Hon'ble Justice Pradeep Nandrajog, retired Chief Justice of the Bombay High Court, whose consent has been taken, is appointed as the Single Member Committee for the said purpose to carry out the task. The learned Judge will fix his own fee. Insofar as the sitting of the Committee is concerned, it has already been mentioned aforesaid that it can be at the discretion of the Committee to hold proceedings in Delhi or Mumbai or for that matter anywhere else.

The arrangements for the sitting of the Committee shall be made by the Competent Authority as also the necessary arrangements for stay of the learned Judge and all other expenses including travel.

We would like to keep the matter pending and request the learned Judge to give a status report in about six months.

List after the status report is received.

IA No. 184128/2019 - INTERVENTION/IMPLEADMENT

Re-notify on the next date along with the main matter.

(ASHA SUNDRIYAL)  
ASTT. REGISTRAR-cum-PS

(POONAM VAID)  
COURT MASTER (NSH)