

Date: 16th April 2021

To,
Shri Nilesh Sharma,
Resolution Professional of M/s Dream Procon Pvt. Ltd.,
C-10, LGF, Lajpat Nagar-III,
New Delhi-110024.

Subject: Regarding your email dated 12.04.2021 and invitation to participate in the 11th meeting of the CoC of M/s Dream Procon Private Limited.

Dear sir,

1. I write to you with respect to your email dated 12.04.2021, wherein you have issued Notice to the Noida Authority to participate in the 11th meeting of the Committee of Creditors of M/s Dream Procon Private Limited (“**Corporate Debtor**”). At the Outset, please note that the statement made in the Notice dated 12.04.2021 (“**Notice**”), wherein you have said Noida Authority’s filing of its claim is closed is incorrect- it virtually amounts to pre-deciding the Appeal that is pending before the Hon’ble NCLAT. Please note that only if Noida Authority fails to succeed in its Appeal, will the question of filing any claims before the RP arise.
2. It is pertinent to mention that Noida Authority has preferred an Appeal bearing C.A. (AT) (INS.) No. 288 of 2021 (*New Okhla Industrial Development Authority vs. Nilesh Sharma Resolution Professional & Anr.*) (“**Appeal**”) before the Hon’ble National Company Law Appellate Tribunal, New Delhi (“**NCLAT**”), wherein it has challenged the Order dated 02.03.2021 passed by the Hon’ble National Company Law Tribunal, New Delhi (“**NCLT**”) in C.P. No. (IB) - 1771(ND)/2018. On 07.04.2021, the Hon’ble NCLAT was pleased to issue notice to all the Respondents in the said Appeal and thus, the Hon’ble NCLAT is presently ceased of the matter. The issues whether the Noida Authority has any

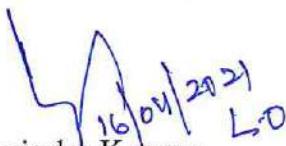
contractual legal relationship with Corporate Debtor and whether the Corporate Debtor has any legal rights over the Plot No. GH-02, situated at Sector-143, Noida Uttar Pradesh are pending adjudication before the Hon'ble NCLAT. No question of Noida Authority filing its claim in respect of the Corporate Debtor would arise if the aforesaid Appeal is allowed by the Hon'ble NCLAT. The question of Noida Authority filing its claim would only arise in a situation where the Hon'ble NCLAT dismisses the aforesaid Appeal filed by the Noida Authority. Therefore, pending final adjudication, it would be wrong to suggest that the Hon'ble has rejected the Noida Authority's prayer relating to the filing of its claim. Such a statement amounts to pre-deciding the outcome of the aforesaid Appeal which is *sub-judice* in the Hon'ble NCLAT. The question of filing/non-filing of claim qua the corporate debtor would only arise once the said Appeal is decided by the Hon'ble NCLAT.

3. I would further like to draw your attention to the fact that Hon'ble NCLAT on 07.04.2021 has also issued notice on the I.A. No. 668/2021 filed by the Noida Authority seeking stay of the Order dated 02.03.2021 passed by the Hon'ble NCLT and the same is lying pending before the Hon'ble NCLAT. Furthermore, it is factually incorrect to suggest that the Noida Authority made any prayer before the Hon'ble NCLAT with respect to the filing of its claim qua the Corporate Debtor. Such a prayer is in direct conflict with the relief sought in the aforesaid Appeal, whereby the Noida Authority has prayed for the setting aside of the Order dated 02.03.2021 passed by the Hon'ble NCLT directing the Noida Authority to file its claim qua the Corporate Debtor. Assuming without conceding, even if Noida Authority wanted to file its claim qua the RP, no such prayer was required to be made before the Hon'ble NCLAT as the directions contained in the Order dated 03.02.2021 were in itself sufficient for Noida Authority to avail any such alleged prayer/remedy.
4. The main point of contention of Noida Authority before the Hon'ble NCLT and Hon'ble NCLAT has been that the property in question i.e. Plot No. GH-02,

situated at Sector-143, Noida Uttar Pradesh cannot form part of the assets of the Corporate Debtor as the same is not an asset of the Corporate Debtor. Since, Resolution Applicants are treating the property in question as the integral part of the resolution plan submitted by them and the Noida Authority is disputing the same, it would be appropriate to wait for the outcome of the decision in appeal before proceeding with the voting on the resolution plans or at the very least until the next date of hearing of the said Appeal, i.e., 30.04.2021.

5. In light of the same, please do not proceed unilaterally before the Hon'ble NCLAT decides the matter, it may not only be contumacious, but tantamount to pre-empting and deciding a substantial legal question without waiting for the Hon'ble NCLAT to decide this question. You can move the Hon'ble NCLAT for any directions before taking such unilateral decisions that affect the rights of party.
6. That furthermore, no prejudice will be caused to the present CIRP proceedings as the time spent on any litigation has to be considered while calculating the total period within which the insolvency needs to be resolved.
7. In view of the aforesaid, please withdraw the said Notice regarding the 11th CoC meeting which is scheduled on 16.04.2021 at 5:00PM and refrain from voting on any prospective resolution plans in respect of the Corporate Debtor until the said Appeal is disposed off by the Hon'ble NCLAT or at the very least until the next date of hearing of the said Appeal, i.e., 30.04.2021.

Yours sincerely,


Ravinder Kasana
Law Officer
New Okhla Industrial Development Authority