

BEFORE THE COMPANY LAW BOARD, NEW DELHI BENCH  
NEW DELHI

C.P. NO. 25/09/2014

PRESENT : SHRI DHAN RAJ  
HON'BLE MEMBER

IN THE MATTER OF SECTIONS 73 AND 74 OF THE COMPANIES ACT 2013.

AND

IN THE MATTER OF:

M/S Ansal Properties & Infrastructure Ltd. ....Petitioner Company  
Having its registered office at  
115, Ansal Bhawan,  
16, Kasturba Gandhi Marg,  
New Delhi-110001

PRESENT ON BEHALF OF THE PARTIES :

1. Mr. P.K. Mittal, Advocate for Petitioner
2. Mr. Anil Kumar, Jt. Managing Director & CEO
3. 24-Depositors

(APPLICATION FOR EXTENSION OF TIME FOR REPAYMENT OF DEPOSITS  
UNDER RULE 44 OF THE COMPANY LAW BOARD REGULATIONS 1991,  
READ WITH SECTIONS 73 & 74 OF THE COMPANIES ACT, 2013)

ORDER

(Date of Final Hearing : 04-12-2014)

In this case, the Petitioner/Applicant Company has moved Company  
Petition on 23.09.2014 under Sections 73 & 74 of the Companies Act,  
2013, read with Rule 44 of the Company Law Board Regulations, 1991  
with the prayer to allow the scheme for repayment of its fixed depositors,



as per the Schedule of Repayment having involvement of extension of the date of maturing upto 3 years, reduction in the overdue rate of interest to 6% p.a. and exemption of the Applicant Company from the requirement of maintaining liquid assets under Rule 13 of the Companies (Acceptance of Deposits) Rules 2014 till the validity of the scheme, as may be sanctioned by the Hon'ble Board. As stated in the Petition, the Petitioner Company was incorporated on 30.06.1967 and is having its Registered Office at 115, Ansal Bhawan, 16, Kasturba Gandhi Marg, New Delhi-110001. Against the Authorised Capital of Rs 150 crores, the Paid-up Capital amounted to Rs 78.70 crores, as on 31.03.2014. Presently, the Petitioner Company is, inter alia, engaged in the business of Real Estate Developer and Colonizer, Housing and Development of Integrated Townships Condominiums, Group Housing and Construction of Commercial premises etc.. During the year ending 31<sup>st</sup> March 2014, the sales turnover of the Petitioner Company stood at Rs 1418.26 crores.

2. The Petitioner Advocate submitted that the Applicant Company, has not only been regular, punctual and sincere in deposit/ payments of Income Tax, Excise Duty, Sales Tax and other Excise Duty, Customs Duty, Service Tax, Wealth Tax and other statutory duties and Taxes, Cess, Employees Estate Insurance and other Government dues, suppliers dues, workers dues but also in the repayment of fixed deposits and interest accrued thereon. Being public limited and listed company, the Applicant Company has accepted deposits from the public since the June, 1987 and the Applicant Company had been regularly and punctually repaying the principal sums of fixed deposits and interest accrued thereon. Consequently, the Company had paid pack the matured fixed deposits up to December, 2013. However, as stated by the Petitioner Advocate in the Company Petition, the Applicant Company started facing liquidity problems after September, 2013 and the following factors have resulted to the blockage/shortage of funds during the financial year 2013-14 :-

- (a) Inventory level has increased by Rs.108.88 crores, due to downward trend in the Real Estate Sector because of overall recession in the Economy;
- (b) Sundry Debtors stood increased by an amount of Rs.13.49 crores.



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- (c) Cost of Steels, Cements, Bricks and other constructional materials has increased manifold and disproportionately and thus leading increased cost of finished inventories;

Further to this, the Applicant Company submitted that after September, 2013, the following are the main, substantial and predominant reasons for the current liquidity problems being faced by the Applicant Company :-

- a. Regulatory Constraints;
- b. High interest Rates/High Cost Debt availed by the Company;
- c. Low Demand in Housing and Commercial Sector;
- d. Increase in Construction Cost/Supplies & Materials;
- e. Land issues in Uttar Pradesh
- f. Accepting of Fixed Deposits stopped;
- g. Low Demands;
- h. Low Profits in Ongoing Projects;

3. The Petitioner Advocate has further stated that the liabilities of the Applicant Company, as on 31.3.2014, aggregates to Rs 3860.94 crores as against the assets of approx. Rs.5496.49 crores which includes work in progress for on-going projects amounting to approx. Rs.2253 crores which are yet to be developed, marketed and sold to the public. There has been no material and perceptible change with regard to the financial position of the Applicant Company till date. It has also been stated that every year in the next two years there shall be cash out flows which cannot be met by the cash inflow and hence, there shall be cash deficits which does not support the repayment of the fixed deposits unless the repayment is rescheduled/restructured.

4. In the Company Petition, the Petitioner Advocate has highlighted that the Petitioner Company wishes to come out of the present difficult financial conditions by adopting the following remedial measures/ steps :-

- a) Substitution of High cost debts including structured debts of Private Equity Players with low cost debts/equity deals;
- (b) Change in product mix;
- (c) Dilution of Equity Stakes on Project level which will substantially increase the cash flows of the Company.



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- d) Fast Development/construction of the various Projects of the Company for recovery of uncalled sale value of the sold properties to increase the cash inflows and handing over of the possession;
- e) Liquidation of the Licensed Unsold Inventory;
- f) Sale of Non-Core Assets, such as, Wind Mill, Farm Houses etc.

5. It has also been stated that the Applicant Company has a total Fixed Deposit outstanding as on 03.09.2014 of approx. Rs.188.89 crores (Principal). Out of this, total deposit of the sum of approx. Rs.57.73 crores are already matured and the remaining sum of Rs. 131.16 crores approx. are yet to be matured. The details of the category wise summary of the fixed depositors are as under:-

<u>CATEGORY</u> (Rs.)	<u>NO OF</u> <u>HOLDERS</u>	<u>AMOUNTS</u> (Rs. In crores)	<u>% OF TOTAL FD</u> <u>HOLDERS</u>
UPTO 1,25,000	9218	58.86	31.16
1,25,001 - upwards	3114	130.02	68.84
<b>TOTAL</b>	<b>12332</b>	<b>188.88</b>	<b>100.00</b>

6. On 30.9.2014 when the petition was mentioned before the Bench, the Applicant Company was directed to issue an Advertisement/Notice in the two newspapers viz., one in English and the other in Vernacular language intimating the depositors about the scheme submitted by the company to this Bench. In addition, Bench Officer was also directed to obtain a report from Registrar of Companies, NCT of Delhi and Haryana, New Delhi.

In compliance to the above, the Applicant Company issued the advertisement on 16.10.2014 in 'Financial Express' in English and the other in "Amar Ujala' in Hindi language and to this effect, the company has filed an affidavit of compliance dated 20.10.2014 with this Bench under the signature of Shri Amitav Ganguly, Senior Group Company Secretary of the Company. Besides, the report dated 05.11.2014 was also received from Registrar of Companies, NCT of Delhi and Haryana. In response to the aforesaid advertisement/notice in the newspapers, 904



applicants have raised objections and 167 Fixed Deposit holders have consented to the Scheme of the company.

7. Vide letter dated 05.11.2014, the Registrar of Companies, NCT of Delhi & Haryana, New Delhi, has submitted his report mentioning therein that this office is receiving complaints against captioned Company on regular basis regarding non-payment of fixed deposit amount. Further, this office has also recommended to Ministry of Corporate Affairs to grant sanction to initiate penal action under Sections 73 & 74 of the Companies Act, 2013.

8. During the course of hearings, numerous Fixed Deposit holders appeared in person and submitted their comments/suggestions in writing. Precisely, the following suggestions have been made :-

- (a) The fixed deposits of those investors who want renewal of fixed deposit should be allowed on the same terms and conditions, as applicable to the present fixed deposits.
- (b) The repayment of the fixed deposits should not be extended beyond four years.
- (c) The rate of interest should not be allowed to be lower than 12% per annum.
- (d) The cases of hardship on account of serious illness, senior citizens above 65 years of age, higher education of children, marriage etc., be considered on priority basis.

In addition to above, it was also pointed out that the Company is still earning profits and hence, there is availability of cash in the Company. Further, the Chairman, Vice-Chairman, Executive Directors and Non-executive Directors have been drawing their salaries and perks. Besides, the company has got Rs.200 crores from Peninsula Brookfield (a PE firm) against Secured Non-convertible Debentures.

9. The Company Secretary of the Applicant Company filed the affidavit dated 8.12.2014 explaining therein that the company's net profit and margins were around Rs.101 crores and 19% respectively for the financial year 2011-12 which have fallen to meagre Rs.6 crores and 7% respectively in the financial year 2013-14. In addition to fall in



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profitability, the Applicant Company is facing more acute cash availability problems due to the steep fall in the cash generations over the years. In fact, the collection from operations has fallen from Rs.150-175 crores per month to Rs.100 crores per month during the financial year 2011-12 and onwards till 30<sup>th</sup> September, 2014. Thus, for the financial year 2013-14, the payments involved huge cash outflow of Rs.1,600 crores against net inflow of Rs.1,450 crores from customers/other sources. With regard to the sum of Rs.200 crores, it was clarified that Peninsula Brookfield (a PE firm) has invested in secured non-convertible debentures of M/s. Ansal Hi-tech Townships Ltd. and not in the Applicant Company and hence, this amount came into another corporate entity and not in the accounts of the Applicant Company. Furthermore, the cost cutting in the Applicant Company is going on and even the Chairman, Vice-Chairman, Executive Directors and Non-executive Directors have not taken their salaries and commission for the financial years 2012-13 and 2013-14.

10. Having considered the averments made in the Company Petition, scheme of repayment, objections/suggestions of the Fixed Deposit holders, arguments of the Petitioner Advocate and affidavit dated 8.12.2014, it is clear that being the public limited and listed company, the Petitioner Company has accepted fixed deposits from the public since June, 1987 and the Applicant Company had been regularly and punctually repaying the principal sums of fixed deposits and interest accrued thereon upto December, 2013. However, the Petitioner Company started facing liquidity problems on account of various reasons especially the reduction in profitability and margins over the last 2 years. Though the Applicant Company earned net profit during the financial year ending 31<sup>st</sup> March, 2014, the net profit was meagre at Rs.6 crores against the net profit of Rs.101 crores during the financial year ending 31<sup>st</sup> March, 2012. Moreover, the payments by the Applicant Company involved the cash outflow of Rs.1,600 crores against the inflow of Rs.1,450 crores from consumers and other sources during the financial year 2013-14. Therefore, as stated in the Petition, as on 30.9.2014, out of total fixed deposits of Rs.188.89 crores (approx.), the fixed deposits of Rs.57.73 crores have already matured and the remaining Rs.131.16 crores (approx.) are yet to be matured.



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It is also on record that the Petitioner Company is still earning profits though the net profit of Rs.6 crores for the financial year 2013-14 is really very low. Moreover, the crucial thing to note is that as on 31.3.2014, the liabilities of the Petitioner Company aggregated to Rs.3,860.94 crores only against the assets of approx. Rs.5,496.49 crores which includes work in progress for on-going projects amounting to Rs.2,253 crores. In view of this, it is expected that there is good potential of earning substantial profits in the Company and the present funds/cash crunch is temporary for one to two years. Therefore, the prayer of the Applicant Company for reduction of interest for the extended period of repayment to 6% p.a. is not substantiated. As such, in view of the facts and circumstances, with due consideration of the interest of fixed deposit-holders, applicant Company and public at large together with the submissions/comments/suggestions of the fixed deposit-holders, the Advocate for the Petitioner Company and the Registrar of Companies, in exercise of the powers under Section 74(2) of the Companies Act, 2013, I hereby sanction the scheme of repayment to fixed deposit-holders and direct the Applicant Company to make the repayment of fixed deposits (retained) under :-

- (i) The Applicant Company is to pay the contracted rate of interest on fixed deposits till the rescheduled date of maturity and the interest shall be paid along with the last installment wherever applicable.
- (ii) The scheme will be effective from 1<sup>st</sup> January, 2015 and will deal with the fixed deposits which have matured for payment, but not yet paid and also, those which will become due for payment in future.
- (iii) The fixed deposits which became due for payment on or before 31<sup>st</sup> March, 2014, will be paid in full within three months, i.e., latest by 31.3.2015.
- (iv) The fixed deposits upto Rs.25,000/- due for payment on or before 31.12.2014 shall be paid latest by 31.01.2015.
- (v) The fixed deposits upto Rs.25,000/- becoming due on or after 1.1.2015, shall be paid fully within 10 working days after 6 months of the date of maturity.
- (vi) The fixed deposits of Rs.25,001/- and above till Rs.1,25,000/- becoming due on or after 1.4.2014 shall be paid in full within 10 working days after one year of the date of maturity.



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- (vii) The fixed deposits becoming due for payment on or after 1.4.2014 and having principal amount of Rs.1,25,001/- or more, will be paid in two years from the date of maturity in the manner mentioned herein below:-
- (a) 35% of the amount within 10 working days after one year (12 months) from the date of maturity;
  - (b) 65% of the amount within 10 working days after two years (24 months) from the date of maturity.
- (viii) In regard to the hardship cases like serious illness, senior citizen above 65 years of age, widows/widowers, marriage and higher education of dependent children etc., payment shall be made on priority basis to the extent of Rs.45 lakhs per quarter.
- (ix) The company is to maintain at least 30% of liquid assets as required under the Deposit Rules till the validity of the Scheme in respect of the fixed deposits covered in the said Scheme.

11. The Company will adhere to the following guidelines in implementing the scheme:-

- (a) While repaying the deposits as per the aforesaid scheme, all individual deposits will be treated as such and shall not be clubbed if any depositor holds more than one deposit for the purpose of arriving at the amount as fixed in the scheme.
- (b) The payment shall be made in the order of date of maturity i.e., deposits which have matured earlier shall be paid before deposits maturing at a later date.
- (c) The repayment shall be spread over all the months in the year.
- (d) Notwithstanding the aforesaid scheme, the Company will be at liberty to make repayment of deposits along with the interest thereon before the stipulated time, if funds are available.
- (e) The Company shall make repayment of deposit and interest according to the above scheme by cheque/demand drafts/pay order which shall be sent by registered post/couriers/speed post to the respective depositors or personally to the deposit-holders with proper acknowledgement.
- (f) The Company will file an affidavit, once in three months, on the state of repayment deposits, the first on 15<sup>th</sup> April, 2015 with



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