

**IN THE NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH, GUWAHATI**

No..... 172
Date of Presentation
of Application for copy..... 11/6/2020
Copying fee..... 8 pages
Registration & postage fee..... Nil
Total..... Nil
Date of receipt &..... Nil
Date of copy..... Nil
Date of preparation of copy.....
Date of delivery of copy..... 11/6/2020

**IA No. 37 of 2020
CP (IB) No.9/GB/2019**

In the matter of:

An application under Section 19 read with Sec.23(2) of the Insolvency and Bankruptcy Code, 2016;

And

In the Matter of:

Stressed Assets Stabilization Fund [SASF].

.....Financial Creditor

And

In the Matter of:

National Plywood Industries Limited.

.....Corporate Debtor

And

In the Matter of:

Mr. Sandeep Khaitan, Resolution Professional

.....Applicant/Resolution Professional

And

And

In the Matter of:

1. Piyush Periwal, Chairman cum Managing Director of Suspended Board of NPIL, 12e, Judges Court Road, Alipore, Kolkata – 700 027, West Bengal

2. Narendra Sureka, CA, Accounts (Head) of NPIL, 5, Fancy Lane, 7th Floor, Kolkata – 700 001

.....Respondents

Date of Hearing 20th My 2020

Order Delivered on 20th May 2020



For the Applicant

: Mr. Sandeep Khaitan (RP) & Mr. Nishant
Kalilka Pr.CA &
Ashok Kumar Tibrewala, Pr.CA.

For the Respondents : Advocate.Mr. Abhijit Sarkar.

ORDER

Present Jinan K.R., Member (Judicial)

The applicant, Shri Sandeep Khaitan, Interim Resolution Professional (IRP), is appointed by this Tribunal vide order dated 25/8/2019 in this case as IRP, has filed this application against the respondents with the prayer for directions upon the promoters, directors of the corporate debtor to hand over the management of the affairs of the company for smooth running and completion of the CIRP.

2. Brief facts of the case, as stated in the application, are that this Tribunal vide order dated 25/8/2019 while admitting the petition declared moratorium and public announcement in accordance with Sec.13 and 15 of the IBC, 2016 and appointed IRP for ascertaining the particulars of creditors and convening of CoC for evolving a resolution plan. In terms of the order, the IRP made Public Announcement for CIRP with respect to the corporate debtor in different newspapers – both at Guwahati as well as at Kolkata.

3. In the said public announcement, the IRP invited claims from the creditors. The suspended Board of Directors since very beginning were trying to delay the time bound CIRP. The corporate debtor had 19 bank accounts whereas details of 17 bank accounts were shared with IRP. The corporate debtor did not properly cooperate with the CIRP. The CIRP made several correspondences followed by reminders with the corporate debtor.

4. The RP further would submits that the unaudited provisional accounts prepared casually without following mercantile system of accounts and shared



with the CIRP almost 6 weeks thereafter, which contains too many anomalies which were communicated to CD by the IRP for necessary correction and furnishing substantiating details.

5. With a motive to CIRP initiation quashed, Directors of the suspended Board of the corporate debtor / respondent No.1 moved an application to NCLAT praying that the application filed by the financial creditor was not within limitation and the admission order passed by this Tribunal for initiation CIRP be quashed. The Hon'ble NCLAT vide its order dated 25/11/2019 dismissed the appeal.

6. Thereafter, the Directors of the suspended Board of the corporate debtor moved before the Hon'ble Supreme Court and till the date of passing of the order by the Apex Court on 20/1/2020, the transaction audit could not be completed due to pendency and incompleteness of the requisite details sought for by the auditors. The erstwhile management was not fully cooperating with the applicant as being over confident of getting a clear order quashing the CIRP proceedings. The erstwhile Directors of the suspended Board of the corporate debtor also tried to derail the IRP process by an order dated 25/2/2019 passed by Hon'ble Guwahati High Court in one of the ongoing matters of National Boards Ltd. and illegitimately claiming the stay of CIRP process. This was the first of the series misinterpretation of court order. One of the unit of CD at Hosur Plant was suspended since 27/11/2017 due to strike of workmen. However, the valuation of assets and stock as required by Regulation 27 has to be done on plant site. In order to that several requests were made by Valuers to plant head of Hosur unit, the desired inspection was not arranged till date.



7. In the meanwhile against the appeal filed by the shareholder of CD Hon'ble Supreme Court passed an order dated 20/1/2020 which reads as under: -

"In view of the fact that the NCLAT noted 21/2/2002 instead of 21/2/2003 while computing the limitation, we set aside the order passed by the NCLAT. We request the NCLAT to consider the matter afresh in accordance with law. All questions including the submissions raised on behalf of the respondent as to the effect of the earlier proceedings initiated are kept open."

8. Both the Directors of the suspended Board of the corporate debtor never serious to submit the plan and their primary motive was to delay so that the process could be frustrated and derailed. Subsequent to passing of the order by the Apex court the erstwhile Directors of the suspended Board of the corporate debtor has become whimsical and had gone berserk carrying two hoots, almost making a complete mockery of the law and making blatant violation of IBC, 2016.

9. The Directors of the suspended Board of the corporate debtor on the basis of the order of the Hon'ble Supreme Court wrote several letters to bankers insisting it that his signature be restored and the IRP's signature be removed emphasizing that CIRP has been terminated.

10. One of the independent directors Mr. Arbijit Sarkar of the suspended board obstructed the functioning of RP by threatening over phone call. The Company Secretary of CD called two board meetings of CD on 30/1/2020 and 1/2/2020. In that meeting Shri Arun Jhunjhunwala has been inducted as an independent director with effect from 1/2/2020. Further, the Company Secretary informed SEBI vide letter dated 29/1/2020 that the CIRP process has

