

CNR No.DLSW01-007246-2021
Reg. No. CC/875/2021
IBBI Vs. Jasjit Singh Sawhney

21.12.2021

Present: Ms. Saahila Lamba, ld. counsel for the complainant/IBBI (through VC).

This hearing has been done in physical Court. Hybrid mode is permitted in the case on the request being received from learned counsel for the complainant/IBBI.

Arguments on the point of taking cognizance and summoning of accused heard.

Record perused.

The present complaint case has been filed by Insolvency & Bankruptcy Board of India (hereinafter referred as “IBBI”) on the averments that it is a statutory body established under the Ministry of Corporate affairs, Government of India, created under Insolvency & Bankruptcy Code, 2016. It is alleged that the accused is Ex-Director of Net 4 India Ltd. (hereinafter referred as “Corporate Debtor”), as per relevant master data available with ROC. It is claimed that despite direction of NCLT, the accused failed to provide requisite assistance and cooperation to the Resolution Professional, to manage the affairs of the Corporate Debtor in Corporate Insolvency Resolution Process (CIRP). It is alleged that initially, Sh. Vikram Bajaj was appointed as Interim Resolution Professional (IRP) vide order dated 08.03.2019 and subsequently he was confirmed as Resolution Professional. It is also alleged that despite repeated

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requests of the Resolution Professional to provide all relevant documents of the Corporate Debtor including balance sheets, books of accounts, inventory, assets etc. as also to cooperate in the process of ascertaining the value of the assets of the Corporate Debtor to have fair estimate of its, the accused failed to provide details of all the assets and the requisite cooperation meant for ensuring and ascertaining fair estimate of its worth. The complainant has filed copies of relevant orders in support of the averment that NCLT repeatedly observed the factum of non-cooperation by accused in said orders. It is further alleged that on the basis of finding of technical expert and forensic auditor Resolution Professional came across certain fraudulent and illegal transactions undertaken by the erstwhile management of the Corporate Debtor/accused while conducting affairs of Corporate Debtor including transfer of entire business/assets of Corporate Debtor to Net4 Network Services Limited (a wholly owned subsidiary of the Corporate Debtor), entering into Share Transfer Agreements without informing Board of Directors of Corporate Debtor and by resorting to a procedure which was in direct contravention of the Companies Act, 2013, diverting/transferring trademarks owned and used by the Corporate Debtor by the accused in his own name without getting the requisite permission of the Board of Directors/Shareholders of the Corporate Debtor. Based on

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aforesaid averments/allegations, it is claimed that the accused has violated the provisions contained in Sections 68(i)(a), 69, 70 and 19(1) r/w Section 235A of the Code and is liable to be punished accordingly.

In support of the complaint, the complainant has filed the relevant documents including the details of the Board of Directors of Corporate Debtor, showing that accused was its Ex-Director during the relevant period.

The present complaint has been instituted through General Manager namely Sh. Rajesh Kumar, in whose favour Authorization letter has been executed on behalf of IBBI, which empowers him to act and perform various functions including institution of present complaint case on their behalf.

As per provision contained in Section 236(2) of the Insolvency & Bankruptcy Code, 2016, the complainant i.e. IBBI has powers to set the criminal law into motion through its authorized officer. In view of Section 236(1) thereof, the offences punishable under the said Code, are triable by the Special Court so constituted under Chapter XXVIII of the Companies Act, 2013. The complainant has placed on record notification number S.O.2554(E) dated 27.07.2016, whereby this Court has been conferred with the jurisdiction to try the offences in the capacity of Special Court so constituted in terms of Section 435(1)(a) of the Companies Act, 2013.

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After considering the documentary evidence placed on record, this Court is satisfied that prima facie the aforesaid offences under the Insolvency & Bankruptcy Code, 2016 have been committed by the accused persons. Thus, *cognizance of said offences is taken.*

Since the present complaint has been made by a public servant in his official capacity, the pre-summoning evidence is required to be dispensed with in view of proviso of Section 200 CrPC. Accordingly, the accused be summoned for facing prosecution for violation of the provisions contained in Sections 68(i)(a), 69, 70 and 19(1) r/w Section 235A of the Code. They be summoned on filing of PF/RC/courier within 7 days, for next date.

Put up for further proceedings on **11.02.2022.**

(SUMIT DASS)
ASJ-03 & Special Judge (Companies Act)
Dwarka Courts (SW)/New Delhi/21.12.2021