

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**JAIPUR BENCH**

**CORAM: SHRI DEEP CHANDRA JOSHI,**  
**HON'BLE JUDICIAL MEMBER**

**SHRI RAJEEV MEHROTRA,**  
**HON'BLE TECHNICAL MEMBER**

**IA No. 275/JPR/2019**  
**In CP No. (IB)- 17/7/JPR/2018**

**IN THE MATTER OF:**

**M/S RELIANCE COMMERCIAL FINANCE LTD.**  
**...FINANCIAL CREDITOR**

**VERSUS**

**M/S MAXIMUM SYNTHETICS PVT. LTD.**  
**...CORPORATE DEBTOR**

**MEMO OF PARTIES**

**IA No. 275/JPR/2019:**

**M/S MAXIMUM SYNTHETICS PVT. LTD.**

*Through Resolution Professional,*  
*Mr. Satyendra Prasad Khorania*  
402, 4<sup>th</sup> Floor, OK Plus DP Metro,  
Opp. Pillar No. 94, New Sanganer  
Road, Jaipur- 302019 (Rajasthan)

**...Applicant**

**VERSUS**

**MR. KAILASH CHANDAK**

*S/o Mr. Bhoj Raj Chandak*  
5, Surendra Bhawan New Housing  
Board, Shastri Nagar, Bhilwara-  
311001 (Rajasthan) E-mail:  
[maximum\\_suiting@yahoo.com](mailto:maximum_suiting@yahoo.com)

**...Respondent No. 1**

**MR. SHIV RATAN CHANDAK**

*Proprietor of M/s Maxima Textile*  
134, Ambaji Market, Gangapur  
Choraha, Bhilwara- 311001  
(Rajasthan)

**...Respondent No. 2**

*Sd/-*

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**FOR THE APPLICANT(S)** : Amol Vyas, Adv.

**Order Pronounced On: 22.02.2024**

**ORDER**

**Per: Shri Deep Chandra Joshi, Judicial Member**

1. This present Application bearing *IA No. 275/JPR/2019* has been filed by *Mr. Satyendra Prasad Khorania*, Resolution Professional ('Applicant'/ 'Resolution Professional') of *M/s Maximum Synthetics Pvt. Ltd.* ('Corporate Debtor') under Section 19(2) of the Insolvency and Bankruptcy Code, 2016 ('IBC'/ 'Code') seeking the following set of reliefs:

- *This application may kindly be allowed and necessary orders may kindly be passed*
- *The suspended Directors of the Corporate Debtor may be directed to provide all the documents and records (hard/ soft copy) to the RP along with documents specifically asked for and*
- *To provide the information/ clarifications asked for and provide full cooperation to the Resolution Professional in carrying the statutory duties under the IBC, and*
- *To provide the complete information of the vehicles and also handover the vehicle to the resolution professional, and*
- *Any other order, direction which the Hon'ble Tribunal may deem to be fit and proper in the facts and circumstances of the case in favor of the Resolution Professional.*

2. This Adjudicating Authority vide order dated 17.05.2019 had admitted the application filed by *Reliance Commercial Finance Limited* ('Financial Creditor') under Section 7 of Code for initiation of Corporate Insolvency Resolution Process ('CIRP') of the Corporate Debtor and as a consequence thereof, appointed Mr. Rajiv Sharma, as Interim Resolution Professional ('IRP'). Later on, vide order dated 12.07.2019, *Mr. Satyendra Prasad*

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*Khorania* was appointed as the RP ('RP') as approved by the CoC. Consequently, an order for Liquidation was passed by this Authority on 09.02.2021 and *Mr. Satyendra Prasad Khorania* was appointed as the Liquidator.

3. The present application has been filed on the following set of facts:

3.1. It is submitted that the erstwhile IRP demanded certain documents/ information from the erstwhile directors of the Corporate Debtor on 20.05.2019 to proceed with the CIRP of the Corporate Debtor. Further, reminders were sent via emails dated 28.05.2019 and 30.05.2019, however, no response was received from the Respondents being the Directors of the Corporate Debtor.

3.2. Thereafter, the Applicant via email dated 14.07.2019 intimated the replacement of Resolution Professional and requested the Respondents to provide the entire records, books of accounts, electronic records along with other documents of the Corporate Debtor. Again on 03.08.2019 & 07.08.2019, the RP sent reminder mails to the erstwhile Directors but no information was provided. The RP had provided the list of the documents/ information which were not provided by the Directors, thereby causing hindrance.

3.3. The RP, while taking over of the production site of the Corporate Debtor, found that the stock was not available in the satisfactory quantity as against the value mentioned in the books of the Corporate

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Debtor. It is apparent that the Respondents have failed in providing the necessary cooperation and support to the RP. Despite the serious efforts and patience, the RP has not been able to get the necessary cooperation and support from the directors. Hence, the present application has been preferred.

4. The Respondents filed their Reply, *vide* Diary No. 198/2020 dated 29.01.2020, stating as below:

4.1. The Respondents have contended that they personally met the Applicant and provided all possible assistance as and when required. Moreover, it is undisputed fact that all the statutory, accounting records are available at the registered office of the company and the possession of the same is with the Applicant.

4.2. While relying on the contents of the Application filed by the RP under Section 66 numbered as *IA No. 366/JPR/2019*, the Respondents submitted that for information post 31.03.2018, it has been number of times informed that even at the start of 2018, the functioning of the unit was stopped and symbolic possession of the factory was taken by its financial institutions. The information as on 31.03.2018 is the only information and after that no business was done.

4.3. Further, all the documents have already been provided or obtained by the Applicant. On the basis of the documents, the Resolution Professional has preferred Applications under Section 45 & 47 of IBC.

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When the stock, as alleged by the Applicant, mentioned in the books was not found, he neither informed the Respondents nor filed a complaint before the concerned police station; nor did the Applicant bothered to check the inventory with the Panchnama prepared by the financial institution. The Respondents also contended that as if something was stolen during the course of CIRP, the Applicant cannot be held responsible for he is only doing his best job. Likewise, the Respondents also cannot be responsible for each and every theft.

5. We have heard the learned counsel for the parties and perused the Application, Reply along with documents attached therewith.
6. It is seen that the CIRP of the Corporate Debtor was ordered on 17.05.2019 and subsequently, the present Application was filed on 28.08.2019. While the Application under Section 19 of the Code was pending adjudication, the Liquidation of the Corporate Debtor was ordered vide letter dated 09.02.2021. The order of Liquidation dated 09.02.2021 had directed as below:

*“(V) The personnel of the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor and provisions of Section 19 of the Code shall apply in relation to liquidation process as they apply in relation to CIR process with the substitution of references to the Interim Resolution Professional for references to the Liquidator.”*

7. Even though the abovesaid directions were passed, the Respondents have failed to either appear before this court or extend their co-operation as

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required by the Applicant for Liquidation of the Corporate Debtor in consonance with the provisions of the law. It is also pertinent to note that due to non-cooperation in proceedings initiated under Section 95 of IBC against the Respondents, Bailable Warrants were issued against the Respondents multiple times. The Respondents chose to appear in other proceedings through their counsel, hence, it was observed that the Respondents are wilfully absconding from the present proceedings. Therefore, ex-parte proceedings were initiated against the Respondents.

8. The provisions of Section 19 of the Code casts an obligation on the personnel and promoters of the Corporate Debtor to extend all assistance and co-operation required by the Resolution Professional in the management of the affairs of the Corporate Debtor and Section 19(2) empowers the Resolution Professional to file appropriate application before this Adjudicating Authority to seek necessary directions. Similarly, Section 35 of the Code delineates the powers and duties of Liquidator and specifically empowers the Liquidator to take into his custody or control all the assets, property, effects and actionable claims of the Corporate Debtor.
9. In view of the foregoing and after consideration of the prayers of the Applicant, this Application stands allowed with the following directions for proper Liquidation of the Corporate Debtor:

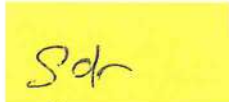
- 9.1. The Respondents shall extend necessary co-operation and provide all information as sought by the Applicant and the Statutory Auditors and

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make available all the documents as prayed for within a period of 15 days from the date of this order.

- 9.2. The Respondents shall provide the complete information of the vehicles and also handover the vehicles of the Corporate Debtor, if any, to the Resolution Professional within a period of 15 days from the date of this Order.
10. The RP shall be at liberty to move appropriate application in case of any breach of the direction mentioned above. Furthermore, the non-compliance with the aforesaid direction would attract strict penalties. Upon non-compliance of the directions enumerated above, adverse orders may be passed against the Respondents.
11. The Registry is directed to serve a copy of this Order to the Respondents. The Resolution Professional shall also be duty bound to inform the Respondents. Accordingly, IA No. 275/JPR/2019 stands disposed of.



**DEEP CHANDRA JOSHI**  
**JUDICIAL MEMBER**



**RAJEEV MEHROTRA**  
**TECHNICAL MEMBER**