



THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

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

**SHRI PRASANTA KUMAR MOHANTY
HON'BLE TECHNICAL MEMBER**

IA No. 310/JPR/2022;
IA No. 65/JPR/2023 &
CP No. (IB)- 05/9/JPR/2018

(Under Section 9 of the Insolvency and Bankruptcy Code, 2016)

IN THE MATTER OF:

AVON CLOTHING PRIVATE LIMITED

...Operational Creditor

VERSUS

M/S SIDHARTH INTERCRAFTS PRIVATE LIMITED

...Corporate Debtor

MEMO OF PARTIES

IA No. 310/JPR/2022:

SANDEEP KUKKAR

R/o F-21 (BDE) Malviya Industrial
Area Malviya Nagar, Jaipur,
Rajasthan- 302018

Also at:

C-237, Dayanand Marg, Tilak Nagar,
Jaipur, Rajasthan- 302004

...Applicant

VERSUS

SIDDARTH INTERCRAFT PRIVATE LIMITED

R/o F-21 (BDE) Malviya Industrial
Area Malviya Nagar, Jaipur,
Rajasthan- 302018

...Respondent No. 1

IA No. 310/JPR/2022;
IA No. 65/JPR/2023 &
CP No. (IB)- 05/9/JPR/2018

**AVON CLOTHING PRIVATE LIMITED**

R/o G-112, Mansrovar Industrial
Area, Jaipur, Rajasthan- 302020

...Respondent No. 2**AND****IA No. 65/JPR/2023:****BRIJ KISHORE SHARMA**

R/o Ab-162, Vivekanand Marg, Near
DCM, Ajmer Road, Jaipur, Rajasthan-
302019

...Applicant**VERSUS****M/S AVON CLOTHING PRIVATE LIMITED**

R/o G-112, Mansarovar Industrial
Area, Jaipur, Rajasthan- 302020

...Respondent No. 1**MR. VIJAY KUMAR TODI**

R/o A-301, Shiromani Residency,
Nehru Nagar, Ahmedabad- 380015

...Respondent No. 2**MRS. VISHAKHA AGARWAL**

R/o A-301, Shiromani Residency,
Nehru Nagar, Ahmedabad- 380015

...Respondent No. 3**MRS. SHASHI TODI**

R/o A-301, Shiromani Residency,
Nehru Nagar, Ahmedabad- 380015

...Respondent No. 4**MR. SANDEEP KUKKAR &
MR. SIDDHARTH KUKKAR**

R/o C-237, Dayanand Marg, Tilak
Nagar, Jaipur, Rajasthan- 302004

...Respondent No. 5

**MR. JITENDRA NIGAM**

R/o Plot No. 14-C, Gopal Bari, Jaipur,
Rajasthan- 302001

...Respondent No. 6

For the Operational Creditor : Mr. Nikhil Yadav, Adv.
Mr. Mahesh Kumar Kandoi, present in
person

For the RP : Brij Kishore Sharma, present in person

Order Pronounced On: - 17.03.2023

ORDER

Per: Shri Deep Chandra Joshi, Judicial Member

IA No. 310/JPR/2021:

1. An application under Section 12A of the Insolvency & Bankruptcy Code, 2016 read with Rule 30A of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 read with Rule 11 of the National Company Law Tribunal, 2016 has been filed by the Corporate Debtor for withdrawal of the CIRP in the matter of Siddharth Intercrafts Private Limited and disposal of main petition bearing CP No. (IB)- 05/9/JPR/2018.
2. It has been submitted that CP No. (IB)- 05/9/JPR/2018 was filed by Avon Clothing Pvt. Ltd. ('Operational Creditor') against Siddhath Intercraft Pvt. Ltd. ('Corporate Debtor') and the same was admitted by this Adjudicating Authority vide order dated 17.05.2019. Mr. Brij Kishore Sharma was

**IA No. 310/JPR/2022;
IA No. 65/JPR/2023 &
CP No. (IB)- 05/9/JPR/2018**



appointed as IRP, who later on as per the resolution passed in the first meeting of CoC held on 15.03.2019 was confirmed as RP.

3. All the four (4) Operational Creditors of the Corporate Debtor submitted their respective claims before the IRP and as there was no such Financial Creditors, therefore, aforesaid 4 Operational Creditors constituted the CoC. However, for the reasons beyond the control and owing to some other litigations the Corporate Debtor settled the later 3 Operational Creditors from his personal sources and those 3 Operational creditors withdrew their claims before IRP/ RP by submitting respective settlement deeds. Hence, the CoC was left with only the Operational Creditor who was the Applicant in the main petition.
4. It is submitted that even after passing of 3 years, till date, neither the EOI has been invited, nor the IM has been prepared nor Evaluation Matrix has been presented. The matters are being dragged at the cost of CoC. The Operational Creditor also filed his complaint before the IBBI under Section 217 of the Code. The learned RP once again issued the notice dated 05.02.2020 on 06.02.2020 which is yet pending for adjudication.
5. The IRP/ RP has also realised that instead of doing anything in letter and spirit, the Operational Creditor is just settling the personal scores and claiming unreasonable demands from time to time. As such, the Applicant approached to the Corporate Debtor for resolution of the matter and thereafter amicable solution was arrived between the parties recorded vide



MoU dated 02.07.2021. The full amount as agreed in the MoU has also been paid off and while doing so the Operational Creditor also undertook to satisfy the IRP/ RP and CIRP cost, if any, incurred by him.

6. During the pendency of present application, one of the Operational Creditors i.e. M/s Synergy Marketing Inc. moved an application bearing IA No. 356/JPR/2021 before this Adjudicating Authority that his claim was not considered by the RP despite, the fact that claim was filed within 90 days. Vide order dated 22.07.2022 this Adjudicating Authority directed the RP to call a meeting of CoC with regard to the claim of M/s Synergy Marketing Inc.
7. An appeal was filed by the Corporate Debtor challenging the order dated 22.07.2022, passed by this Adjudicating Authority in IA No. 356/JPR/2021. The matter withdrawn as the Corporate Debtor finally settled the matter. In the final order of the abovesaid appeal, the Hon'ble NCLAT vide order dated 06.02.2023 directed this Adjudicating Authority to take a final decision on IA No. 310/JPR/2021.
8. It is observed that despite the fact that all the creditors were settled by the Corporate Debtor no application under Section 12A has been filed either by the RP or the Applicant herein. The Operational Creditor, who is the Applicant in the present matter has not furnished Form FA under Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for withdrawal



of the Application. Since the claim of all the creditors have been settled by the Corporate Debtor, no claim is pending before the RP. In view of the foregoing, we deem it appropriate to allow the withdrawal of the main petition. Hence, the main petition bearing CP No. (IB)- 05/9/JPR/2018 stands disposed as withdrawn along with this Interim Application.

IA No. 65/JPR/2023:

1. This application has been filed by Mr. Brij Kishore Sharma, RP seeking directions to Member of CoC for making payment of fees to IRP/ RP and reimbursement of expenses incurred by the IRP/ RP.
2. The expenses relating to the publication of Public Announcement and other expenses Rs. 22,576/- (Rupees Twenty Thousand Five Hundred Seventy-Six Only) has been incurred by the IRP. The same has been ratified by the CoC in the first meeting out of which Rs. 22,000/- (Rupees Twenty-Two Thousand) has been re-imbursed by the Avon Clothing Pvt. Ltd. on 13.08.2019.
3. In the first meeting of CoC, it was resolved that a remuneration of Rs. 75,000/- (plus applicable taxes) is hereby approved for payment to the RP in the Corporate Insolvency Resolution Process of the Corporate Debtor. All the members of the CoC were present and the matter relating to the remuneration was continuously deferred.



4. The expenses incurred by the IRP/ RP till date are as under:

<i>Particulars</i>	<i>Amount (in Rs.)</i>
E-voting Expenses for 2 nd , 3 rd and 4 th Meeting of Coc @ Rs. 4000/- plus GST (Rs. 4720/-) per event of E-voting	14,160/-
NCLT Fee for Application made for Extension of Time, Exclusion of Time, Fee Application, Withdrawal and other matters	6,000/-
Fee of the Advocate for Nine Hearing @ 5000/- per hearing as decided in the Second Meeting of CoC held on 18.07.2019 to till date.	55,000/-
Other costs for stationery, printing, photocopy, Stamp Papers, Notary, etc.	3,440/-
<i>Total Cost Incurred till date</i>	<i>78,600/-</i>

5. In consideration of long pending matter and all the Operational Creditors have being settled by the erst while directors of the Corporate Debtor, the RP/IRP proposes for fees of Rs. 20,000/- per month for 25 months and 15 days from 17.05.2019 to 02.07.2021 and as such the total amount payable to IRP/ RP is Rs. 5,10,000/- plus applicable taxes. Therefore, the total amount as claimed by the RP is Rs. 5,88,600/- (Rupees Five Lakh Eighty-Eight Thousand Six Hundred Only). It is seen that the Operational Creditor holds 80.46% share in the CoC.
6. After due deliberations, it was amicably settled that the fees of the RP shall be Rs. 3,78,600/- (Rupees Three Lac Seventy-Eight Thousand Six Hundred) which includes Rs.3,00,000/- (Rupees Three Lacs Only) for the Fees of RP and Rs. 78,600/- (Rupees Seventy-Eight Thousand Six Hundred Only) for expenses incurred by the RP. The Applicant in main Petition Mr. Mahesh



Kumar Kandoi, Director of M/s Avon Clothing Pvt. Ltd. will pay an amount of Rs. 3,04,622/- (Rupees Three Lakh Four Thousand Six Hundred and Twenty-Two Only) according to his share in the CoC. Other CoC members also liable to pay IRP/RP fees and expenses in accordance to their share in CoC. The compliance of the order shall be made within 15 days from pronouncement of this order.

DEEP
CHANDRA
JOSHI

Digitally signed
by DEEP
CHANDRA JOSHI
Date: 2023.03.17
17:50:28 +05'30'

**DEEP CHANDRA JOSHI,
JUDICIAL MEMBER**

PRASANTA
KUMAR
MOHANTY

Digitally signed by
PRASANTA KUMAR
MOHANTY
Date: 2023.03.17
18:33:47 +05'30'

**PRASANTA KUMAR MOHANTY,
TECHNICAL MEMBER**