



**NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH**
(through web-based video conferencing platform)

Item No. 103
IA No. 266/JPR/2021
IA No. 392/JPR/2021
IA No. 77/JPR/2022
IA No. 192/JPR/2022
IA No. 215/JPR/2022
IA No. 222/JPR/2021
IA No. 223/JPR/2022
IA No. 248/JPR/2022
IA No. 33/JPR/2023
IA No. 130/JPR/2023
IA No. 141/JPR/2023
CP No. (IB)- 01/9/JPR/2021
Under Section 9 of IBC, 2016

In the matter of:

Sangam (India) Ltd.

...Operational Creditor/Applicant

Versus

Adig Jemtex Pvt. Ltd.

...Corporate Debtor/Respondent

**Coram: HON'BLE MR. DEEP CHANDRA JOSHI, JUDICIAL MEMBER
HON'BLE MR. PRASANTA KUMAR MOHANTY, TECHNICAL MEMBER**

Present Through Video Conferencing: -

For the BoB : Anubha Singh, Adv.
Deepika Sanwariya, AR
For the Applicant : Amol Vyas, Adv.

ORDER

IA No. 223/JPR/2022:

1. This application has been filed for seeking direction to the Bank of Baroda for crediting the subsidy amount of Rs. 88,66,432/- in the current account of the Corporate Debtor which has been illegally appropriated after the initiation of CIRP.

Sdr

Sdr



2. The present petition has been filed by the Operational Creditor under Section 9 of IBC against the Corporate Debtor for initiation of CIRP and this Hon'ble Tribunal vide its order 17.06.2021 admitted the aforesaid petition and initiated CIRP against the Corporate Debtor and appointed Mr. Rishabh Chand Lodha as the Interim Resolution Professional in the matter.
3. An application filed by the Financial Creditor of the Corporate Debtor under Section 22(3)(b) of the Code for replacing the IRP as RP, the Hon'ble Tribunal vide its Order dated 05.08.2021 allowed the application and appointed Mr. Kamal Kumar Jain as the Resolution Professional of the Corporate Debtor.
4. It has been submitted that on 11.06.2021, the Corporate Debtor received an amount of Rs. 88,66,432/- in its Cash Credit Account being the subsidy from the government. Immediately after the receipt of the aforesaid amount, CIRP was initiated against the Corporate Debtor and therefore, the aforesaid payment received on account of subsidy could not have been appropriated by the Bank of Baroda as the moratorium was made applicable u/s 14 of the IBC.
5. Despite the moratorium being applicable, the Bank of Baroda adjusted the aforesaid subsidy amount partly under the head Reversal of Realize interest/Charges for month 06 and Recovery of unapplied interest for the month 06-2021. It is further submitted that when the aforesaid illegal



appropriation of amount was brought to the notice of IRP, in the first meeting of COC on 17.07.2021, the IRP acting as a Chairman of the meeting brought to the notice of the COC that a representation has been made by the members of the suspended Board of Directors regarding the debit of the account of the corporate debtor by the financial creditor Bank of Baroda after the commencement of CIRP. The Chairman therefore informed the COC about the commencement of moratorium u/s 14 of IBC, 2016 whereby no debit is allowed by any Financial Creditor in the account of the Corporate Debtor and the Chairman accordingly advised the Financial Creditor to look into the matter and reverse the amount recovered from the account of the Corporate Debtor.

6. It is prayed that this Adjudicating Authority may please allow the present application and the appropriation of the subsidy amount on 30.06.2021 may be declared as null and void and the Financial Creditor namely Bank of Baroda (Respondent No. 2) may be directed to credit the subsidy amount of Rs. 88,66,432/- in the current account of the Corporate Debtor along with interest @ 24% p.a.
7. The Respondent No. 2 filed its reply *vide* Dairy No. 2411/2022 dated 12.08.2022 stating that the amount in question was received much prior to the initiation of CIRP of the Corporate Debtor and hence, the amount was adjusted in the loan account of the Corporate Debtor. However, the



automated system put in place by Respondent No. 2 had debited some amount under the head of Recovery of unapplied interest for the month of June, 2021 after the initiation of CIRP, on 30.06.2021, the same was reversed by the Respondent No. 2 on 24.08.2022 after it was brought to their notice during the CoC meeting by Respondent No. 1. In this regard, Annexure R-1 Account Ledger Inquiry has been attached with this reply. RP has moved an application u/s 12A of the IBC, 2016 for withdrawal of the CIRP. In view of reply submitted and documents attached with the reply this application has no merit and liable to be dismissed. Hence, this IA is dismissed accordingly.

IA No. 130/JPR/2023:

This application under Section 12A of the IBC, 2016 for withdrawal of ongoing CIRP initiated against M/s Adig Jemtex Private Limited vide order dated 17.06.2021. The RP has submitted that he has received Form FA dated 23.01.2023 seeking withdrawal of ongoing Corporate Insolvency Resolution Process from M/s Sangam India Limited on whose application under Section 9 of IBC, 2016, the CIRP was initiated against the Corporate Debtor. CoC members having 97.34% voting rights has approved the withdrawal of CIRP of M/s Adig Jemtex Pvt. Ltd. by 99.47%. Therefore, CIRP admitted under Section 9 of IBC, 2016 vide order dated 17.06.2021 be withdrawn. Permission granted. CP No. (IB)- 01/9/JPR/2021 is dismissed as withdrawn.

HA

Sd-

Sd-



All pending IAs stand disposed of accordingly.

Sd-

(Prasanta Kumar Mohanty)
Technical Member

Sd-

(Deep Chandra Joshi)
Judicial Member

March 27, 2023