

**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH**

Item 10

**CA No. 321/19,694/22,695/22
1444/22,1447/22 In
CP(IB) No. 223/Chd/Hry/2018
(Admitted)**

**Under Section 9, 60(5) & 66, 43, 45(2) & 49
IBC 2016, R 154 2016**

In the matter of:-

Shri Amit Kansal

...Petitioner/Operational Creditor

Vs.

RP Basmati Rice Ltd.

...Respondent/ Corporate Debtor

Present:

Mr. Rakesh Gupta with Mr. Rakshit Gupta, Advocates for the RP in CA no. 321/2019, IA Nos. 624/2022 and 625/2022.

Mr. Pulkit Goyal with Mr. Prajwal Chauhan, Advocates for the applicant-SBI in IA Nos. 1444/22 and 1447/22.

Mr. Harshvardhan Ranga, proxy counsel for Mr. Jai Vir Yadav, Sr. Advocate for respondent no. 1 in IA Nos. 694/22 and 695/22.

Mr. Deepankur Sharma, Advocate for respondent no. 3 in IA Nos. 694/22 and 695/22.

None for respondent no. 2 in IA No. 694/2022 and 695/2022.

CA No. 321/2019

Heard the learned counsel for the Resolution Professional. The affidavit filed by Resolution Professional vide Diary No. 0724/05 dated 26.10.2022 is taken on record. It is stated in the said affidavit that Rs. 100 Crores was written off on 31.03.2016, which is prior to initiation of CIRP against the corporate debtor.

The affidavit by the Forensic Auditor covering all four issues raised in our order dated 02.09.2022 has been e-filed. Let the hard copy of the same be filed during the course of the day. The learned counsel for the RP is directed to share a copy of the

affidavit filed by the RP as well as the Forensic Auditor with the learned counsel for the respondents, and responses thereto be filed by the learned counsel for the respondents within three weeks.

Learned counsel for the RP is directed to comply with our directions regarding the submission of the Forensic Auditor Report by the leading bank mentioned in our order dated 02.09.2022 at least one week before the next date of hearing.

Considering the fact that huge amounts have been written off on account of destruction of stock and also the fact that there is a caveat in the forensic audit report that relevant documents were not supplied to Forensic Auditor for audit, we deem it expedient to appoint an amicus curiae to assist the Court for ascertaining the correctness of the valuations on the basis of which stock worth Rs. 100 Crores have been written off. For carrying out this exercise, the amicus can seek relevant information from the RP, Forensic Auditor and the Suspended Board of Directors and other stakeholders of the corporate debtor. He is advised to refer to the forensic reports done by the financial creditor-banks, if any, atleast within a period of two years prior to initiation of CIRP for ascertaining the stock position at different points in time.

After discussion with the counsel for Resolution Professional, the total fees for the amicus curiae is fixed at Rs. 1.5 Lakhs to be borne by the Resolution Professional as CIRP cost and the report is to be submitted within 45 days of the receipt of this order.

We request Sh. Anil Mittal to be the amicus curiae in the present application for the issue involved.

The RP and the Forensic Auditor are directed to supply a copy of this application along with its annexures, Forensic Audit Report and all other relevant documents relating to the writing off of Rs. 100 Crores worth of stock to the amicus curiae within one week of the receipt of this order. The amicus curiae may also seek relevant information from the Government Authorities, including the Income Tax Department and the ROC, and these authorities are directed to extend the necessary help to the amicus curiae in this regard.

The amicus curiae is requested to bring on record all relevant information relating to the above issue of write-off of stock. In the event of any non-cooperation of the above-mentioned parties, the same may be brought to the notice of this Bench immediately for corrective action.

Copy of this order be also marked to the amicus curiae Sh. Anil Mittal at his email address: mittalanil.ubi@gmail.com.

List the matter for hearing on 02.03.2023.

IA No. 694/22

Reply filed by respondent no. 1 vide Diary No. 01408/1 dated 19.10.2022 is taken on record. One last opportunity is granted to respondent nos. 2 and 3 for filing reply within three weeks with a copy in advance to the counsel opposite, failing which right to file reply will be forfeited. Rejoinder thereto, if any, be filed by learned counsel for the applicant within three weeks thereafter with a copy in advance to the counsel opposite.

Learned counsel for the applicant is directed to give one-page note on the justification of bringing these transactions under Sections 43, 45, 46 and 49. List the matter on 02.03.2023.

IA No. 695/22

Reply filed by respondent no. 1 vide Diary No. 1399/1 dated 19.10.2022 is taken on record. One last opportunity is granted to respondent nos. 2 and 3 for filing reply within three weeks with a copy in advance to the counsel opposite, failing which right to file reply will be forfeited. Rejoinder thereto, if any, be filed by learned counsel for the applicant within three weeks thereafter with a copy in advance to the counsel opposite. List on 02.03.2023.

IA No. 1444/22 and IA No. 1445/22

These applications have been filed by Applicant-State Bank of India. Learned counsel for respondent no. 2 accepts notice and seeks time to file reply. Let the same be filed within three weeks with a copy in advance to the counsel opposite. Rejoinder thereto, if any, be filed within two weeks thereafter with a copy in advance to the counsel opposite.

Heard. Issue notice of this application to the respondents except respondent no. 2 within two weeks. The applicant shall collect the notice from the Registry and send the same immediately to the respondents at its registered address by speed post along with copy of the petition and the entire paper book with a copy of this order as well as at the email address of the respondent.

In case, the service of speed post on the respondents not effected, then the applicant shall adopt the mode of substituted service and the notice of hearing be advertised in two daily newspapers (one English and one Hindi) having wide circulation in the area and file affidavit of service along with copy of postal receipt, tracking report, copy of email and paper clippings, if applicable within two weeks.

Reply, if any, be filed within three weeks after receipt of notice with a copy in advance to the counsel opposite. Rejoinder thereto, if any, be filed two weeks thereafter, with a copy in advance to the counsel opposite. List the matter on 02.03.2023.

-sd-
(Subrata Kumar Dash)
Member (Technical)

-sd-
(Harnam Singh Thakur)
Member (Judicial)

January 04, 2023
SM