



**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH- II**

**Contempt Application (IBC) No. 22 of 2023
in
IA (IBC) No.1316 of 2023
in
C.P. (IB) No. 64/09/HDB/2023**

[U/s 60(5) of the Insolvency and Bankruptcy Code, 2016, read with Section 425 of the Companies Act, 2013 and Section 12 of the Contempt of Courts Act, 1971]

In the matter of M/s GP Petroleums Ltd Vs. M/s Tirumala Hills Asphalt Pvt Ltd

Between:

Mr. Adinarayana Babji Kota

RP of M/s Tirumala Hills Asphalt Pvt Ltd

Regd Office of the CD:

Flat No.4, H No. 5-8-29, 4th Floor,
Laxmi Sai Nilayam, Fathe Sultan Lane,
Hyderabad 500001.

Address of the RP:

3-1-211 Upstairs,
Somasundaram Street, Secunderabad - 500003
Process-specific email: tirumalahillscirp@yahoo.com
Registered email of RP: kotababji@gmail.com

....Applicant

Vs.

1. Mr. Kuragayala Lakshmi pathi (Suspended Director),

1st Floor, Lakshmi pathi Nilayam,
Officers Colony, Housing Board Colony,
Anantapur 515001
Email: tirumala20pvtltd@gmail.com

2. Ms. Baineni Dhanasree (Suspended Director),

1/172, Ellutla, Anantapur - 515425
Andhra Pradesh
Email: bainanidhanasree1940@gmail.com

.... Respondents



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Coram:

Shri Rajeev Bhardwaj, Hon'ble Member (Judicial)
Shri Sanjay Puri, Hon'ble Member (Technical)

Counsels Present:

For the Applicant : Mr. Adinarayana Babji Kota, Liquidator
For the Respondent Nos.1 & 2 : None

[Per : Rajeev Bhardwaj, Member Judicial]

ORDER

I. Under consideration is an application filed by the Resolution Professional u/s 60(5) of the Insolvency and Bankruptcy Code, 2016 r/w Section 425 of the Companies Act, 2013 and Section 12 of the Contempt of Courts Act, 1971 against the suspended directors of the Board of the Corporate Debtor (**CD**) of M/s Tirumala Hills Asphalt Private Limited seeking the following reliefs:

- a. Initiate contempt proceedings against the Respondents;
and
- b. Direct the Respondents to obey the directions given by this Tribunal in IA 1316/2023.



II. Brief facts of the Applicant/RP are as follows:

1. M/s. GP Petroleum Ltd (**Operational Creditor/OC**) had filed an application bearing CP(IB) No.64/09/HDB/2023 under Section 9 of the Insolvency and Bankruptcy Code, 2016 (**IBC**) for initiation of the Corporate Insolvency Resolution Process (**CIRP**) against the Corporate Debtor (**CD**), M/s. Tirumala Hills Asphalt Private Limited. This Adjudicating Authority admitted the application of OC vide order dated 14.06.2023 (**Admission Order**) and initiated CIRP against the CD and appointed Mr. Adinarayana Babji Kota as Interim Resolution Professional (**IRP**).
2. The IRP has intimated the Suspended Directors through email id provided in the MCA Master Data about the appointment of the Applicant as IRP and furnished a copy of the CIRP Admission Order and public announcement issued by IRP and requested Respondents to furnish the documents.
3. The CoC, during the first meeting held on 10.07.2023 appointed the IRP as Resolution Professional (**RP**), and the RP accordingly submitted the First Progress Report on 26.07.2023 before this Authority vide IA No.1193/2023.



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4. Due to the non-cooperation from the Suspended Directors of the CD in providing the required documents and information, RP filed an application vide IA No. 1316 of 2023 under Section 19(2) of IBC before this Authority.
5. Upon filing the IA.No. 1316/2023, the Statutory Auditor of CD (Respondent No. 3) has provided the Tally data for the financial years 2020-21 and 2021-22, and has further stated that these were the only documents that are in his possession. However, the Applicant/RP has not pursued further directions against the Statutory Auditor and filed a memo on 04.09.2023 to obtain other relevant data from the suspended management of the CD.
6. This Authority vide Order dated 12.09.2023 directed the Respondents herein to provide the information required by the Applicant/RP. Despite the said Orders, there was no response from the Suspended Directors of the CD, and hence, the Applicant approached this Authority with the present application.
7. It is averred by the Applicant/RP that due to non-availability of the required information and documents, the statutory compliances, namely, Statutory Audit, Income Tax Returns,



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MCA filings for the Financial Year 2022-23 and preparation of Information Memorandum could not be completed.

8. The email reminders sent by the Applicant/RP on 16.09.2023, 03.10.2023, 05.10.2023, 09.10.2023 and 16.09.2023¹ went unanswered by the Respondents, and despite multiple attempts, Respondent No.1 failed to respond to the applicant's phone calls.
9. In the email dated 16.09.2023, the Applicant/RP outlined the required documents/details, which include the handover of two tankers (location undisclosed), cheque-books, invoices for the purchase and sale of goods, and invoices for the purchase of plant & machinery and factory building construction (superstructure only), both sold on 26.07.2022. Additionally, the invoices for tanker purchase, the agreement for film production, the minutes book, and GST returns filed till date were required. Books of accounts need to be updated from 01.04.2023 to 14.06.2023 (ICD). Additionally, a list of debtors and creditors, including email IDs and mobile numbers was requested, along with the correct postal address and contact details of the purchaser of the plant & machinery and the factory superstructure.

¹ Email thread is as Annexure-2 at pages 11 to 13 of the application



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10. Upon waiting for a further period of two months, the Applicant/RP was prompted to file the present application bearing Contempt Application (IBC) No.22 of 2023, filed u/s.60(5) of The Insolvency and Bankruptcy Code, 2016 r/w Section 425 of the Companies Act 2013 And Section 12 of the Contempt of Courts Act, 1971. The Applicant/RP is deeply aggrieved by the Respondents' contumacious conduct, particularly their willful disregard for the directions issued by this Authority in the Order dated 12.09.2023, which is disposed of in IA 1316/2023 with specific instructions to the Respondents.
11. It is stated that despite giving sufficient opportunity, the suspended management had not provided any sort of information. The Resolution Professional (RP) filed an application under Section 45 of the IBC as the Respondents have not provided the invoices of the sales and purchases of the CD. Further it is averred that film production agreement and minutes book were also not provided to the RP.
12. Respondents were set **ex-parte** through Order dated 11.12.2024.



13. We have heard learned Counsel for the applicant and perused the record.

III. Findings:

14. Initiating contempt proceedings serves a dual purpose: first, to uphold the majesty of law by punishing the contemnor, and second, to compel the contemnor to comply with legal directives.
15. To establish contempt, it must be proven that the disobedience of the Order was wilful. The Applicant must demonstrate that the Respondents, despite having knowledge of the Order dated 12.09.2023 in IA (IBC) No. 1316 of 2023, deliberately and wilfully breached it with the intent to undermine the dignity and authority of this Tribunal. The Hon'ble Supreme Court in ***Ram Kishan Vs. Tarun Bajaj, (2014) 16 SCC 2014***, has elaborated on the meaning of wilful disobedience, stating that the term "wilful" introduces a mental element and requires an assessment of the contemnor's intent. Wilful disobedience is deliberate, intentional, and conscious, with full awareness of the consequences. It excludes casual, accidental, bona fide, or unintentional acts. A wilful act must be performed with a bad



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purpose, stubbornly, or without a justifiable excuse. Mere negligence or inadvertence does not constitute wilful disobedience. Furthermore, even where an order is disobeyed, if the non-compliance is due to compelling circumstances, the contemnor cannot be held liable for contempt. Contempt proceedings, including committal or sequestration, are not warranted unless there is a substantial degree of misconduct.

16. Reference is also made to the decision in ***Salauddin Ahmed vs. Samta Andolan, AIR 2012 SC 3891.***
17. In light of the legal principles discussed, it is necessary to examine whether Respondent Nos. 1 and 2 have wilfully and deliberately disregarded the order issued in IA No. 1316/2023. However, the Applicant has not relied upon the specific order passed in the said IA. Without establishing the content of the Order and proving its non-compliance, no conclusion can be drawn regarding disobedience.
18. The material on record indicates that the Applicant sent emails dated 16.09.2023, 03.10.2023, 05.10.2023, and 09.10.2023 to the Respondents, seeking information to ensure the smooth functioning of the CIRP of the Corporate Debtor. However, there is no evidence indicating the nature of the information requested or that the Respondents wilfully disregarded any



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obligation. The mere act of sending emails, without proving that they were received and knowingly ignored by the Respondents, does not amount to contempt.

19. The allegations in the Application are vague and ambiguous and do not establish sufficient grounds for initiating proceedings under Section 12 of the Contempt of Courts Act, 1971.
20. In view of the foregoing discussion, no case for contempt is made out. Accordingly, the present Application is dismissed for lack of merit.

Sd/-

**SANJAY PURI
MEMBER (TECHNICAL)**

Sd/-

**RAJEEV BHARDWAJ
MEMBER (JUDICIAL)**