

NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

213. IA/5349/2023 C.P. (IB)/518(MB)2022

IN THE MATTER OF

Saraswat Co-op. Bank Ltd

... Petitioner

Vs

SRISTI HOSPITALITY PRIVATE LIMITED

... Respondent

U/s 7 of the Insolvency and Bankruptcy Code, 2016

Order Delivered on 22.11.2023

CORAM:

SHRI. K R SAJI KUMAR,
MEMBER (J)

MS. MADHU SINHA,
MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:

For the Applicant/RP: Sr. Counsel Mustafa Doctor i/b Amir Arsiwala a/w
Farzeen C. Pardiwalla

For the Respondent:

ORDER

1. **IA 5349 of 2023**- Heard the Counsel for the Applicant. A Resolution Professional is an insolvency professional within the meaning of Section 5(27) of the Insolvency and Bankruptcy Code, 2016 (Code). He is appointed by the Tribunal and is duty bound to conduct Corporate Insolvency Resolution Process under Section 23 of the Code. All personnel of the Corporate Debtor including the promoters of the Suspended Board of Directors are under legal obligation to extend all assistance and co-operation to the Resolution Professional. No suit, prosecution or other legal proceedings shall lie against the Insolvency Professional under Section 233 of the Code.
2. The Resolution Professional, Shri Rajan Deshraj Agarwal of Sristi Hospitality Pvt. Ltd. is appointed by this Tribunal and is regarded as an officer of the Court to discharge his functions under the Code. He is under legal duty to take possession of the assets and properties of the Corporate Debtor, Sristi Hospitality Pvt. Ltd.

3. The Ld. Sr. Counsel has submitted that Respondent No. 1, Santacruz Police Station (Sr. Inspector, VP Road (Link Road) & Juhu Road Junction, Santacruz (W), Mumbai – 400054) has been making calls to the RP saying that certain complaints had been filed against him in connection with trespass of the property of the Corporate Debtor. The Sr. Counsel also submits that police is trying to cause hindrance to the discharge of the official functions of the RP.
4. Having considered the matter, we direct Respondent No. 1 not to intervene in the day to day functions of the RP who is appointed by this Tribunal. The Respondent No. 1 is also directed not to take any coercive action in connection with the discharge of the official duties of the RP.
5. The Respondent No. 2, Shri Santosh Shetty (603, Oyster Shell, Juhu Beach, Mumbai – 400049) is directed to co-operate with the Resolution Professional as he is duty bound to manage the affairs of the Corporate Debtor.
6. Notice of Motion- **The Registry is directed to issue notice** to the Respondent and to submit service report along with notice copy sent to the Respondent No. 1 and 2, postal receipt, track report/acknowledgement.
7. The Applicant is also directed to serve notice to the Respondents. The Applicant shall file service affidavit along with copy of notice sent to the Respondents, original postal receipt, track report, E-mail, etc. at least seven days before the next date of hearing.
8. The Respondent No. 2 is directed to file his reply, if any, before the next date of hearing by serving an advance copy on the Counsel for the Applicant. List the IA along with the CP on **04.12.2023**.

Sd/-
MADHU SINHA
Member(Technical)
/z/

Sd/-
K R SAJI KUMAR
Member(Judicial)