

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
INDORE BENCH at AHMEDABAD  
COURT 1**

**IA 15 of 2020 in TP 60 of 2019 [CP(IB) 32 of 2017]**

**Coram: Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER (JUDICIAL)  
Hon'ble Mr. PRASANTA KUMAR MOHANTY, MEMBER (TECHNICAL)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF INDORE BENCH OF  
THE NATIONAL COMPANY LAW TRIBUNAL ON 06.02.2020**

Name of the Company: Kuldeep Verma RP of K.S. Oils Ltd  
V/s  
State Bank of India & Ors

Section: Section 60(5) IBC, 2016

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	Aditya J. Pandya	Adv.	R.P/Applicant	AJ.N.
2.				

**ORDER**

The Applicant is represented through respective Learned Counsel.

The arguments of the RP are heard.

The IA No. 15 of 2020 in TP 60 of 2019 is allowed.

The detailed order is recorded vide separate sheet.

  
(PRASANTA KUMAR MOHANTY)  
MEMBER (TECHNICAL)

  
(HARIHAR PRAKASH CHATURVEDI)  
MEMBER (JUDICIAL)

Dated this the 6th day of February, 2020.

**BEFORE THE ADJUDICATING AUTHORITY  
(NATIONAL COMPANY LAW TRIBUNAL)  
INDORE BENCH AT  
AHMEDABAD**

**IA 15 of 2020  
IN  
CP(IB) No. 32/7/NCLT/AHM/2017**

**In the matter of :**

SREI Infrastructure Finance Limited .. Applicant

V/s.

K.S. Oil Ltd., ..Corporate Debtor

AND

**In the matter of :**

M/s. K.S. Oil Limited  
through Mr. Kuldeep Verma  
Resolution Professional,  
46, B B Ganguly Street, Unit No. 501,  
Kolkata 700012 ... Applicant

V/s.

State Bank of India  
SAMB-II, through Mr. Sunil  
Gupta (DGM), 11<sup>th</sup> Floor,  
Jawahar Vyapar Bhavan, 1,  
Tolstoy Marg, New Delhi-110001 ..Respondent No. 1

Phoenix ARC Pvt. Ltd.  
Through Shri ajit Kevin  
(Phoenix Trust FY 14-3) &  
(Phoenix Trust FY 15-15)  
5<sup>th</sup> Floor, Dani Corporate Park,  
158 CST Road, Kalina,  
Santacruz, East -Mumbai-  
400098 ..Respondent No. 2

SREI Infrastructure Finance Ltd.  
Through Shri Ganesh Bagree  
Vishwakarma 86C, Topsia Road,  
(South) Kolkata-700046 ..Respondent No. 3

IDBI Bank Limited  
Through Shri Senapati Nag  
(DGM)

NPA Management Group, WTC  
Complex Cuffe Parade  
IDBI Tower, 7<sup>th</sup> Floor,  
Mumbai-400005

..Respondent No. 4

Central Bank of India  
Through Shri S.K. Singh  
9 Arera Hills, Jail Road,  
Bhopal, Madhya Pradesh-462011

..Respondent No. 5

Andhra Bank  
Through Shri Sameer Setu  
Specialised Asset Recovery  
Management Branch  
1<sup>st</sup> Floor, M-35, Connaught  
Circus, New Delhi- 110001

..Respondent No. 6

Punjab National Bank  
Through Shri Neeraj Kumar  
Specialised Asset Recovery Mid  
Corporate branch Siyaganj  
Nr. Mahatma Gandhi hall,  
Indore-452007, Madhya Pradesh

..Respondent No. 7

Jammu & Kashmir Bank Limited  
Impaired Assets Recovery Branch  
4<sup>th</sup> Floor, 5/1 Prestige Terraces,  
Union Street, Off Infantry Road,  
Bengaluru-560001

..Respondent No. 8

Life Insurance Corporation of  
India  
LIC India, Central Office  
6<sup>th</sup> Floor, East Wing, Jeevan Bima  
Marg, Nariman Point, Mumbai-  
400021

..Respondent No. 9

PEC Limited  
Through Shri S. F. Ahmed  
Hansalaya -15, Barkhamba  
Road, New Delhi- 110001

..Respondent No. 10

The Federal Bank of India  
Through Shri Unni Krishnan  
134, 13<sup>th</sup> Floor, Jolly maker-II,  
Vinay K Shah Marg  
Nariman Point Mumbai-400021

..Respondent No. 11

Bank of India  
Through Zonal office Recovery  
Department  
Arera Hills. Jail Road,  
Bhopal-462011

..Respondent No. 12

Cooperative RABO Bank U.A  
Through Shri Abhirup Mukherjee  
20/F, Tower, A Peninsula  
Business Park, Senapati Bapat  
Marg, Lower Parel, Mumbai-  
400013

..Respondent No. 13

Coram: **Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER JUDICIAL**

**AND**

**Hon'ble Mr. PRASANTA KUMAR MOHANTY, MEMBER TECHNICAL**

Appearance :

Applicant - Learned Counsel Mr. Vivek Sibbak a.w with  
Learned Counsel Mr. Aditya J. Pandya

**Order Dictated and pronounced in open Court**  
**on 6<sup>th</sup> February, 2020**

**O R D E R**

**[Per : Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER JUDICIAL ]**

1. By the present Application the Applicant/Resolution Professional has sought for certain direction from this Court to be issued to the member of Committee of Creditors of K.S. Oil Limited for providing the fund to meet the demand with respect to the Corporate Insolvency

Resolution Process costs in proportionate to their respective Share contribution as the same has also been ratified by the Committee of Creditors in its meeting held on 10.01.2020.

2. The Resolution Professional in the present application has submitted that the Corporate Debtor has no business operations since long and none of the plants are operational and hence there are no cash flows in K.S. Oil Limited.
  
3. It is reported that M/s. K.S. Oil Limited is having five plants which are situated at various locations i.e. (i) Agra Bombay Road, **Guna, Madhya Pradesh** (ii) Agra Bombay Road, **Morena, Madhya Pradesh** (iii) Village Khara Khedi, Mhow Neemuch Road, **Ratlam, Madhya Pradesh** (iv) Mauza Debhog, J.L. No. 149, P.S. Bhabanipur, Dist- Purba Medinipur, **Haldia, West Bengal** (v) Bara Road, Village Tathed, **Kota, Rajasthan**.  
Therefore, incurring huge outstanding costs for security services which are provided in above stated five plants to protect and safeguard the

assets of the Corporate Debtor M/s. K.S. Oil Limited. That apart to the Resolution Professional has to incurred insurance costs and basic upkeep of plants and legal expenses.

4. The Petitioner submits that the Committee of Creditors previously has agreed to ratify the costs of Corporate Insolvency Resolution Process up to August 2019 in meeting held on 29.08.2019 which amount to **Rs. 6.97 Crores** and also agreed to contribute the same as per the voting percentage of their respective members and the Committee of Creditors(CoC) immediately realizing **Rs. 1.82 Crore**. However, thereafter there was no much flow for making payment of contribution towards the costs of the Corporate Insolvency Resolution Process. The attention to this Court was drawn to previous order of this Court dated 03.04.2019, whereby this Court had directed to the Committee of Creditors and its contributory members that the costs/expenses of Corporate Insolvency Resolution Process are required to be borne by the member of the

Committee of Creditors in proportionate of the value of their debts and voting percentage. Therefore, the Adjudicating Authority issued Advisory to the member of the Committee of Creditors to make payment of remaining balance amount of **Rs. 2,44,48,723/-** which was due on 30.10.2018 towards costs and expenses of Corporate Insolvency Resolution Process. However, such amount is partly paid by the respective members of the Committee of Creditors. Therefore, this Court issued further direction by an order dated 12.04.2019 by directing to the Committee of Creditors to make payment of expenses of the Corporate Insolvency Resolution Process in proportionate to their voting percentage, debt value, failing which this Court may pass a consequential order under the discipline of the Insolvency & Bankruptcy Code, 2016.

5. The Petitioner RP contended that only part payment thereafter has been made towards the contribution and the remaining amount

expenses towards Corporate Insolvency Resolution Process costs, is still required to be reimbursed/paid by the Committee of Creditors(CoC).

6. The Resolution Professional has further pointed out in paragraph no. 8 of the present application that the Committee of Creditors members have unanimously agreed to contribute the pending estimated Corporate Insolvency Resolution Process costs of Rs. 2.28 Crores as per its voting percentage within a week. Thus the total outstanding costs/expenses towards Corporate Insolvency Resolution Process is described as under:

Sl No.	Name of the Financial Creditor	Amount to be paid for outstanding CIRP costs(Rs)
1	State Bank of India	4,260,202
2	Phoenix ARC Pvt. Ltd. (Axis)	2,311,003
3	SREI Infrastructure Finance Ltd.	4,359,061
4	IDBI Bank Ltd.	3,207,083
5	Central Bank of India	972,467
6	Phoenix ARC Pvt. Ltd. (ICCI)	945,358
7	Andhra Bank	1,762,837
8	Punjab National Bank	1,437,005
9	The Jammu & Kashmir Bank Ltd	975,055
10	Life Insurance Corporation of India	820,617
11	PEC Ltd	605,165
12	The Federal Bank Ltd	651,070
13	Bank of India	331,631
14	Co-operative Rabo Bank U.A.	198,267
	<b>TOTAL</b>	<b>22,836,821</b>

7. It is also contended that although costs already ratified by the Committee of Creditors in its 11th meeting yet no contribution has so far ~~been~~ come forward, even agreed and ratified by these members till filing of the present application. Hence, the present IA seeking for appropriate direction.


8. Having heard Learned Counsel Mr. Vivek Sibbal for the Resolution Professional and the Learned Counsel for the Respondent/Committee of Creditors and by perusing the material available on record. We are of the view that interim direction issued by this Court vide order dated 03.04.2019 which was issued in IA No. 3 of 2019 r.w. detailed order dated 03.04.2019 and direction issued in IA No. 3 of 2019 is still operative and binding on the members of the Committee of Creditors. Hence we wish to reiterate the same and by directing again to the contributory member of the Committee of Creditors to take needful step for making payment of their contribution towards


costs/expenses of Corporate Insolvency Resolution Process which should be as per their voting percentage and proportionate to their debt value. Otherwise this Court may be constrained to pass consequential order under the discipline of the Insolvency & Bankruptcy Code, 2016.

9. Since, the Resolution Professional has pointed out that as on the date of filing of the present application the total outstanding amount towards costs and expenses of the Corporate Insolvency Resolution Process remained around **Rs. 22,836,821/-**. The same is legally expected and required to be borne by the respective member of the Committee of Creditors. Therefore, we hereby direct accordingly to the Committee of Creditors(CoC) and its contributory members for making compliance and further three weeks' time is granted to the respective members of the Committee of Creditors to make payment of their portion of contribution towards Corporate Insolvency Resolution Process costs such amount shall be payable within stipulated

period from the date of receipt of the authentic copy of this order. Otherwise this court may be constrained to take cognizance of non-compliance of Corporate Insolvency Resolution Process and breach of the moratorium hence it shall be dealt with in accordance with the law under the discipline of the Insolvency & Bankruptcy Code, 2016. Therefore, the Respondent Lead Bank of the Committee of Creditors is required to furnish compliance report before this Adjudicating Authority.

10. With the aforesaid observation the IA No. 15 of 2020 is allowed and stands disposed of List the matter on 31.03.2020 for furnishing compliance report.

  
(PRASANTA KUMAR MOHANTY)  
MEMBER (TECHNICAL)

  
(HARIHAR PRAKASH CHATURVEDI)  
MEMBER (JUDICIAL)

Dated this the 6<sup>th</sup> day of February , 2020.

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