

**THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-I**

I.A. 143 OF 2021

Under Section 65(5) of the Insolvency &
Bankruptcy Code, 2016.

Jitendrakumar Rambaran Yadav

...**Applicant**

V/s

Mr. Ganesamoorthy T

... **Respondents**

In the matter of

C.P.(IB) No. 1967/MB/2019

Creative Garments Private Limited

...Petitioner

V/s.

Dilip Chhabria Design Private Limited

... Respondents

Order delivered on: 22/11/2023

Coram:

Shri Prabhat Kumar
Hon'ble Member (Technical)

Justice Shri V.G. Bisht
Hon'ble Member (Judicial)

Appearances:

For the Applicant : Not Marked in the Attendance
sheet

For the ILFS : Not Marked in the Attendance
sheet

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ORDER

Per: Prabhat Kumar, Member (Technical)

1. This IA 143_2021 is filed by Sh. Jitendrakumar Rambaran Yadav, the Resolution Professional (“Applicant”) in the matter of M/s Dilip Chhabria Design Private Limited, (“Corporate Debtor”) for direction to Mr. Ganesamoorthy T, C.A. of M/s Ganesamoorthy T. & Associates, Chartered Accounts, the Statutory Auditor (“Respondent”) for direction to the Respondent to provide reports, certificates, documents, et signed and issued by the Statutory Auditor for the Corporate Debtor in addition to signed financials for FY 2017-18; and for direction to Disciplinary Committee and the Chairman of National financial Reporting Authority (NFRA) to take strict action against the Respondents. audited financial statements of the Corporate debtor, and inquiry by NFRA. The Corporate Insolvency Resolution Process (“CIRP”) commenced on 17.09.2019, and the Applicant was confirmed as Resolution Professional on 6.11.2019.
2. Prior to initiation of CIRP, the Respondent was appointed as Statutory Auditor for the Financial Year 2016-17 & 2017-18. When it was noticed that the financial statements for the Financial Year 2017-18 are not in records of the Corporate Debtor, the Applicant is stated to have approached the Respondent in October, 2019, and the Respondent informed on 21.10.2019 that the Finalised Statement for the ended 31st March, 2018 (FY 2017-18) were sent to Mr. Pramod and Mr. Syed Aafaq for the Company

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Director and CFO signatures on 3.5.2019, but they have not returned to him said signed Financials for his signatures”.

3. On insistence of Applicant to provide him the copy of the signed financials, Statutory Auditor asked the Applicant to take the printout and get the signature from the management of the Company or IRP and CFO thereafter he will sign the financial statement. However, the Applicant came to know from the Income Tax Portal that the Respondent has issued an Audit Report in form 3CA in terms of Section 44AB of the Income Tax Act, 1961, which certifies that the Financial Statements were audited in terms of Respondent’s Report dated 31.3.2019.
4. In view of the aforesaid, we find that the Respondent is misrepresenting the fact that he has not signed the financial statements for the Financial Year 2017-18 and his denial is contrary to his assertion in Form 3CA prescribed u/s 44AB of the Income Tax Act, 1961. Accordingly, we direct the Respondent to supply the copy of audited financial statement for the financial year 2017-18 to the Applicant immediately. In case, the copy of audited financial statement is not available in his records as of now, though which must be with him as part of permanent records of clients audited by him, he is directed to provide the auditor’s report copy along with unsigned financial statements after putting his signature thereon, which are acknowledged by him to have been given to Mr. Pramod and Mr. Syed Aafaq for Directors and CFO’s signature.
5. In case, the Respondents do not provide the copy of such financial statements along with his report thereon within 15 days from the date of communication of this Order, the Applicant shall forward the copy of this Order to the Disciplinary Committee of Institute of

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Chartered Accountants of India for carrying out inquiry into the conduct of the Respondent and the Disciplinary Committee of Institute of Chartered Accountants of India shall carry out inquiry into conduct of Respondent for appropriate action under their Code of Conduct.

6. In view of the foregoing directions, the IA 143/2021 is disposed of as allowed.

Sd/-

Prabhat Kumar
Member (Technical)

Sd/-

V.G. Bisht
Member (Judicial)