

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

SPECIAL BENCH (URGENT HEARINGS THROUGH VIDEO CONFERENCE)
PRESENT: HON'BLE SHRI RATAKONDA MURALI— MEMBER JUDICIAL
HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI— MEMBER TECHNICAL
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 08.09.2020 AT 10.30 AM

5

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No. 466, 672 & 726/2020 in CP (IB) No. 661/7/HDB/2018
NAME OF THE COMPANY	Meena Jewellers Ltd
NAME OF THE PETITIONER(S)	State Bank of India
NAME OF THE RESPONDENT(S)	Meena Jewellers Ltd
UNDER SECTION	7 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

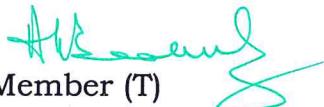
ORDER

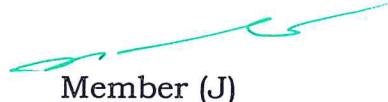
IA 466/2020 is listed for orders today. Orders pronounced vide separate orders.

IA 726/2020 is taken up for hearing. Counsel for Applicant is connected through video conference. For filing reply/counter, list the matter on 24.09.2020.

IA 672/2020 is filed by Resolution Professional for passing order of liquidation.

List it for hearing on 24.09.2020.


Member (T)


Member (J)

Binnu

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

**IA No.466 of 2020
In
CP (IB) No.661/7/ HDB/ 2018**

**APPLICATION UNDER REGULATION
30 OF IBBI (CIRP) REGULATIONS,
2016 READ WITH SECTION 19(2) OF
IBC, 2016.**

In the matter of :

Dr. K.V. Srinivas
Resolution Professional
M/s Meena Jewellers Private Limited

.. **Applicant
Resolution Professional**

VERSUS

1. Umesh Purshottam Jethwani
5-9-30/1, Chandan Bhavan
Road No.3, Palace Colony
Basheerbagh
Hyderabad – 500 029.
2. Sanjay Kumar Vada
6-4-84, Bholakpur Musheerabad
Hyderabad – 500 080.
3. The Commissioner of Police
Hyderabad City, Basheerbagh
Hyderabad.

.. **Respondents**

Date of order : 08.09.2020

Coram:

**HON'BLE SHRI RATAKONDA MURALI,
MEMBER (JUDICIAL)**
and
**HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI,
MEMBER (TECHNICAL).**

Parties / counsels present:

For applicant : Dr.K.V. Srinivas, Resolution Professional
For SBI : Shri Saini Keshav Rao, Advocate.

A.R *and*

[Signature]

Per: HON'BLE SHRI RATAKONDA MURALI, MEMBER (JUDICIAL)

Heard on: 23.07.2020, 06.08.2020 and 17.08.2020.

ORDER

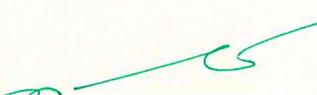
The present IA is filed by the Resolution Professional in the matter of M/s Meena Jewellers Pvt Ltd., Corporate Debtor, seeking directions against respondent no.3-Commissioner of Police, Hyderabad City to provide requisite assistance to the applicant in taking custody and possession of all the assets, records, registers, inventory, etc. of the Corporate Debtor from respondents no.1 and 2, to enable him to discharge his duties effectively in accordance with the provisions of the I&B Code; to direct the respondents to give physical possession of all the assets of the Corporate Debtor; and to direct respondents to fully extend cooperation in the ongoing CIRP of the Corporate Debtor.

2. AVERMENTS MADE IN THE APPLICATION:

2.1 The application filed by State Bank of India, the Financial Creditor under section 7 of the I&B Code has been admitted vide order dated 26.11.2019 passed in CP (IB) No.661/7/ HDB/ 2018, whereby the applicant herein is appointed as IRP.

2.2 It is averred in para 3 to 5 of the application that since commencement of CIRP of the Corporate Debtor, no cooperation is extended by respondent no.1 and 2/ Directors of suspended Board of the Corporate Debtor to the applicant. When the Resolution Professional visited the registered office of the Corporate Debtor on 06.12.2019 along with his team, respondent no.1 expressed his inability in giving possession of any of the assets of the company and pleaded 10 days' time to hand over possession of assets. The Resolution Professional served the order of commencement of CIRP duly acknowledge by the respondent.

2.3 The applicant/ Resolution Professional has filed IA No.50 of 2020 under section 19 of the Code and the Tribunal vide order dated 10.02.2020 directed the respondents to cooperate with the Resolution



Professional. However, the respondent did not comply with the directions so far. (paras 7 & 8).

2.4 In para 9 of the IA the applicant has furnished details of the information sought for and the information provided by the respondents, as on 02.03.2020, in a tabular form. The information sought for and provided during the period from 04.12.2019 to 14.01.2020 is as under:

• Number of heads under which information sought for ..	34
• Information provided under heads ..	02
• Information provided partially under heads ..	01

2.5 It is averred in paras 10 and 11 of the IA that the respondents have neither furnished information sought for nor handed over physical possession of the assets and records of the Corporate Debtor. The applicant, therefore, is not able to file his reports before this Tribunal and IBBI. Hence this application under Regulation 30 of the I&B Code.

3. COUNTER DATED 25.08.2020 FILED BY RESPONDENT NO.1.

3.1 Respondent no.1 has filed Counter denying all the allegations of the applicant in paras 1 to 3 of the Counter.

3.2 In paras 4 and 5 of the Counter it is averred that the Corporate Debtor has three jewellery showrooms at Basheer Baug, Begumpet and Panjagutta. Respondent no.1 has invited the Resolution Professional many times to take possession of the assets of the Corporate Debtor, but in vain. Out of above three assets, possession of Basheer Baug asset was handed over to the Resolution Professional on 13.07.2020, and possession of Begumpet asset was handed over on 15.07.2020. Relevant Panchnama is at ANNEXURE-1. As regards Panjagutta asset, respondent no.1 is willing to hand over possession thereof to the Resolution Professional, but the said premises are found waterlogged. The said premises were closed for two years and it requires major repairs, which could not be carried out for non-availability of workforce due to Covid-19. Though keys of the said property were handed over to Resolution Professional, he denied the said fact.

Akh [Signature]

[Signature]

3.3 In para 6 of the Counter the Corporate Debtor has given following reasons for not handing over documents to the Resolution Professional:

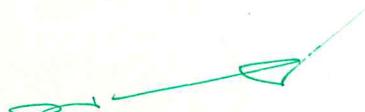
- (i) Relevant documents are handed over to the Income Tax Department during the survey conducted by them and the documents are still in the custody of the Income Tax Department,
- (ii) Fire accident happened on 09.10.2018 in the Head Office of the Corporate Debtor, destroying certain documents.
- (iii) GHMC has sealed the Head Office on 19.03.2020 and had taken custody of computers, books of accounts and other documents, which was informed to Resolution Professional vide letter dated 19.03.2020 (ANNEXURE-2).

3.4 It is averred in para 7 of the Counter that the Corporate Debtor has sent 15 e-mail communications (ANNEXURE-8) to the Resolution Professional providing books of accounts as available with respondent no.1, Income Tax Returns, Audit Reports to the Resolution Professional. A copy of such e-mail dated 17.08.2020 sent to the Resolution Professional and CoC is at ANNEXURE -3.

3.5 In para 8 of the Counter respondent no.1 has answered the status of information sought by the Resolution Professional and replied by respondent no.1, in response to the allegation levelled by the Resolution Professional in para 9 of the IA, as under:

- Respondent no.1 has claimed to have provided information asked for at serial nos.1, 2, 4, 5, 6, 7, 8, 11, 12, 13, 15, 16, 18, 19, 20, 22 and 25.
- He undertakes to provide the information asked for in serial nos.10, 32, 33 and 34.
- As regards serial no.14, the Corporate Debtor does not have subsidiaries as it is known to the Resolution Professional.
- As regards serial no.17, the Corporate Debtor had never obtained facility of internet banking. Hence there is no password for the same.
- As regards serial no.21, there are no joint ventures, WOS of the Corporate Debtor.

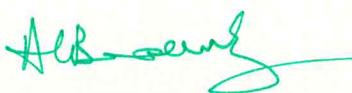
AK serial



- As regards serial no.24, the Corporate Debtor does not have major purchase or sale contracts.
- As regards serial nos.23 and 27 the information is available on the MCA Portal.
- As regards serial nos.26 and 31 the information is not available with respondent no.1.
- As regards serial nos.28, 29 and 30 the register is in the custody of the Income Tax Department and certain information has been destroyed in fire accident.

4. REJOINDER DATED NIL FILED BY THE APPLICANT.

4.1 It is averred in para 2 of the rejoinder that though CIRP was initiated vide order dated 26.11.2019 the respondent/ Corporate Debtor has not handed over the statutory books of accounts, records, registers, minutes of the Board meetings, Asset Registers, etc, which are crucial for efficient discharge of his duties and responsibilities as IRP. Besides, the Corporate Debtor has not given possession of assets of the Corporate Debtor, which is in violation of the Code and disregard of the orders of the Tribunal under section 19 of the I&B Code. The applicant was constrained to file application under Regulation 30 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, seeking assistance of local administration in taking physical possession of the Assets of the Corporate Debtor. This Tribunal vide orders dated 09.07.2020, 23.07.2020, 06.08.2020 and 17.08.2020 gave directions to the Corporate Debtor to cooperate with the applicant. Till 29.08.2020 the Corporate Debtor has not handed over physical possession of the property in question. Besides, they have not yet handed over other movable assets, such as, vehicles to the applicant. By concealing Books of Accounts the respondent/ Corporate Debtor has created hurdles in CIRP. What was handed over is password protected CPU on 21.07.2020, which purported to be consisting Books of Accounts of all three companies. Thus, the respondent/ Corporate Debtor is denying access to the computer stored books of accounts in order to avoid scrutiny of the Resolution Professional and it is only for the Police authorities to find out what lies in the computer. Repeated request for password did not yield result as reported to the Tribunal from time to time.



4.2 In para 4.3 of the rejoinder it is denied that respondent no.1 had ever made offer to Resolution Professional to take custody of assets or have agreed to hand over possession of the property. Neither the Resolution Professional denied to take possession of the property nor directed respondent no.1 to undertake major repairs to the property, which suffered damages due to waterlogging.

4.3 In para 4.4 of the rejoinder it is averred that Resolution Professional was not aware that respondent no.1 approached technicians for repairs and they gave estimate of 5 to 7 weeks for completing repairs.

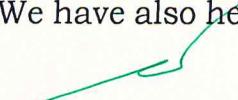
4.4 In para 4.5 of the rejoinder it is averred that the reasons furnished by respondent no.1 for not handing over the documents mentioned in para 6 of the reply, are furnished for the first time.

4.5 In para 4.6 of the rejoinder it is averred that it is true that respondent no.1 has sent some e-mails to the Resolution Professional giving partial information. It is also true that Auditor of the Corporate Debtor replied to a few e-mails sent by Resolution Professional. However, many of such e-mails do not provide complete information asked for by the Resolution Professional. A summary of all e-mail correspondence exchanged between respondent no.1, and the Auditor of the Corporate Debtor is annexed with this rejoinder. A summary of the contents of e-mails received by the Resolution Professional are at ANNEXURE 1. The Resolution Professional has responded, in the tabular form (ANNEXURE-2), to the reply given by respondent no.1 about the information sought for by the Resolution Professional.

4.6 In para 4.8 of the rejoinder the Resolution Professional has given chronology of events that have taken place from 26.11.2019 onwards when the Tribunal has appointed the applicant as IRP, till 29.08.2020, on which day respondent no.1 gave possession of third asset situated at Panjagutta.

FINDINGS

5.. We have heard the Resolution Professional as well as the Learned Counsel for the promoter through video conference. We have also heard

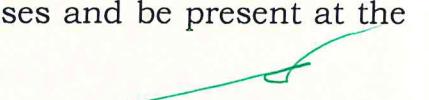


the learned counsel for the Financial Creditor, who is the sole member of the CoC through video conference. Earlier we passed order in IA 50/2020 dated 10.02.2020 directing Respondents 1 & 2 herein to extend all support and co-operation to the IRP to discharge his functions and also to provide information as sought for by the Resolution Professional and extend co-operation so as to complete the CIRP.

6. In the course of hearing, it is brought to our notice that two of the assets out of three have been taken over by the Resolution Professional and the 3rd asset which is in Punjagutta is yet to be taken control by the Resolution Professional. The reason as to why the Resolution Professional is unable to take possession of the said asset situated at Punjagutta, Hyderabad is that the said asset (building) is water logged and it has big shutter and that inventory to be taken in the presence of Respondent 1 & 2 after taking control of the asset. It is also brought to our notice by the Counsel for Resolution Professional that password for the accounts has not been furnished to the Resolution Professional by Respondents 1 & 2/ the promoters. Though CIRP started in November, 2019, the Resolution Professional is unable to take control of the assets of the Corporate Debtor, particularly, the asset situated in Begumpet, Hyderabad. Respondents 1 & 2 to provide assistance to the Resolution Professional to clear the water logged asset/premises, open the shutter of the premises and Respondents 1 & 2 to be present at the time of taking the panchanama and inventory of the premises.

7. The Resolution Professional is also seeking direction to the 3rd Respondent to provide police help in taking over the assets of the Corporate Debtor. It is clear that two assets were already handed over to the Resolution Professional and only the 3rd asset is yet to be handed over for the custody of the Resolution Professional. Considering the difficulty in taking control of the asset, we direct the Respondents 1 & 2 to provide assistance to the Resolution Professional in removing the water from the premises and further directing Respondents 1& 2 to provide password so as to enable the Resolution Professional to have access to the accounts.

8. We are aware, this is the second application filed by Resolution Professional seeking such help from the erstwhile Directors/R1 & R2 and further to open the shutter of the premises and be present at the



time of drawing panchanama, preparing inventory of the items found in the premises at Begumpet.

9. The Application is disposed of directing respondents no.1 and 2 to provide assistance to Resolution Professional in removing water from the premises, open the shutter of the premises and be present at the time of preparing Panchanama/ taking inventory and to sign in the same. We further direct respondents no.1 and 2 to provide password for the accounts of the Corporate Debtor to enable the Resolution Professional to have access to the accounts.


VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)


RATAKONDA MURALI
MEMBER (JUDICIAL)

Karim