

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 2

ITEM No.301
IA/679(AHM)2022
in
CP(IB)/240(AHM)2021

Order under Section 19(2) r.w 60(5) IBC

IN THE MATTER OF:

Vinod Agarwal RP For Map Refoils India Limited
V/s
Mehulkumar Arvindbhai Patel & Ors

.....Applicant

.....Responden

Order delivered on 17 /01/2024

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

The case is fixed for pronouncement of order.
The order is pronounced in open Court vide separate sheet.

S/d-
DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

S/d-
CHITRA HANKARE
MEMBER (JUDICIAL)

**IN THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-2**

**IA No. 679 of 2022
in
C.P. (IB) No. 240 of 2021**

In the matter of:

Vinod Agrawal
Resolution Professional of MAP Refoils India Limited
Having his office at 204, Wall Street – 1,
Near Gujarat College, Ellisbridge,
Ahmedabad – 380006

.....Applicant

Versus

1. Mehulkumar Arvindbhai Patel
1 and 2, Swami Vivekanand Society,
Karan Nagar Road,
Kadi - 382715
2. Khushboo Mehulkumar Patel
1 and 2, Swami Vivekanand Society,
Karan Nagar Road,
Kadi - 382715
3. Arvindbhai Kacharabhai Patel
1 and 2, Swami Vivekanand Society,
Karan Nagar Road,
Kadi - 382715

.....Respondents

Order pronounced on:17.01.2024

**Coram: Mrs. Chitra Hankare, Member (Judicial)
Dr. Velamur G Venkata Chalapathy, Member (Technical)**

Appearance:

For the Applicant/RP: Mr. Monaal Davawala, Adv. a.w. Mr. Yuvraj Thakore, Adv.

For the Respondent: Ms. Natasha Shah

JUDGMENT

1. This is an application filed under Section 19(2) read with Section 60 of the IB Code, 2016 by the RP Mr. Vinod Agrawal of MAP Refoils India Limited seeking appropriate directions/orders regarding non-cooperation by the Suspended Board of Management.
2. The Applicant / RP submitted that he has taken all possible steps to ensure that the Corporate Debtor functions as a going concern. The applicant has repeatedly sought assistance from the Suspended Management as well as other officers of the Corporate Debtor but to no avail. The applicant submits that due to the non-availability of the data, the applicant is facing difficulties in :
 - a. Verification of claims
 - b. Preparation of Information memorandum
 - c. Identification of transactions under Sections 43, 45, 49 and 66 of the Code
 - d. Valuation of Assets
 - e. Compliance with various laws like the Companies Act, Income Tax Act, GST, PF and other allied laws

- f. Information to be provided to prospective RAs
 - g. Collection from various debtors
3. The respondents filed their reply stating that the Applicant has suppressed material correspondences that the respondents have addressed to the Applicant and erstwhile Resolution Professional-CA Dhaval Jitendrakurmar Mistry with respect to the requisite documents. It is further stated that the Respondents vide various emails have provided various documents to the applicant and erstwhile resolution professional in furtherance of their requests made for conducting the corporate insolvency resolution process of the corporate debtor. It is further stated that through these emails, the respondents have provided the applicant with various details and documents such as details of banks, Audit Reports for the Financial Year 2018-2019, 2019-2020, Insurance details, details of vehicles details of pending litigations, list of machineries, GSRT-1 and 33, appointment letters and attendance registers, etc.
4. It is also submitted that the respondents have provided all the documents that were available with the respondents to the applicant. It is further submitted that as the office of the corporate debtor is not accessible to the Respondents, the Respondents are facing difficulty in obtaining old records. The Respondents have further attempted to reconcile the documents

required by the applicant. The Respondents have produced the tax audit report for 2018-2019, Details of Fixed Assets and Fixed Deposits, Details of Shareholding pattern and share certificates, GSTR 3B for the FY 2020- 2021, 2021-22, Hypothecation Agreement and Sanction Letter Agreements with Axis Bank and HDFC Bank, Income Tax Returns and Computation for the Financial Year 2019-20 to 2021-2022.

5. It is further submitted that certain data of the corporate debtor is not available and has been damaged as a consequence of the damage caused to the Hard Disk which contained relevant documents of the corporate debtor. It is further submitted that the Respondents have taken all possible measures to extract the data from the said hard disk however the same has not been conceivable.
6. The Respondents undertook to provide the applicant with all documents/details that the Respondents may further obtain to enable the applicant to smoothly conduct the corporate insolvency resolution process of the corporate debtor.
7. The Applicant/Resolution Professional filed an affidavit in rejoinder and submitted that the details of utmost importance not provided by Respondent No. 2 are as follows:

Sr. No.	Particulars	Status – provided

1.	Accounting data /tally dated (last 4 Years)	No
2.	Provisional / Audited Financial Statements 2020-21, 2021-22	No
3.	Original RC Books and Original insurance policies	No
4.	Keys of all vehicles (Car and trucks)	No
5.	Diagram of the Plant of the Corporate Debtor along with Machinery Invoices	No
6.	Website logins	No
7.	Details of the parties (Debtors and creditors) along with the account statement asked by the Transaction Auditor	N
8.	Details of debtors / receivables with Name, Amount, Address and GST No.	No
9.	Details of inventory (Sales, Purchase and closing stock since last audited statement) –	No

	Month-wise	
10.	List of related parties as per the Income Tax Act & Companies Act and details of all the transactions with the related parties	No
11.	Industry based License (Original copy)	No.

8. Heard the submissions made by the Ld. Counsel for the Applicant and Respondent and perused the records submitted. To smoothly conduct the CIRP proceeds, Section 19 of IBC, 2016 casts an obligation on the Ex-personnel of the Corporate Debtor, its promoter or any other person associated with the Ex management including Ex-directors to extend all assistance and cooperation to the interim resolution professional as may be required in managing the affairs of the Corporate Debtor. Section 19(2) of IBC, 2016 empowers the Resolution Professional to file an appropriate application before the Adjudicating Authority to seek necessary directions and the Adjudicating Authority must issue direction to such defaulting personnel of Ex-management. It is further observed that the suspended management has

provided much of the information sought and should further assist the Resolution Professional in the process of CIRP.

9. Hence, we pass the following order:

ORDER

- i. The Application is allowed.
- ii. The Respondents are directed to extend necessary cooperation and provide all information as sought by the Applicant and make available the documents as prayed for in the present Application within a period of 15 days from the date of this order. There should not be any further delay in the submission of the same to the Resolution Professional.
- iii. If the Respondents fail to cooperate then this Tribunal would be constrained to issue any other orders as deemed fit in order to ensure compliance.

-sd-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

-sd-

CHITRA HANKARE
MEMBER (JUDICIAL)