

On 08.06.2023, the applicant along with his team paid a visit to the registered address of the Corporate Debtor at Pune, however, the said address is occupied by one. K.K. Nag Private Limited, which was also informed by K.K. Nag private Limited vide letter dated 08.06.2023. After various follows ups with the ROC and the suspended director, a suspended director, Ms. Roheena Nagpal, informed to the applicant via mail on 15.06.2023, that the registered office of the Corporate Debtor at Pune was on leave and license basis and had got terminated long back in the year 2019. Therefore, since the Corporate Debtor had already closed operations from 2018-2019, no alternate premises were taken by the Corporate Debtor.

As on the Insolvency Commencement Date the Corporate Debtor is neither in possession of any tangible or recoverable assets nor is a going concern since its operations have been closed from 2018-2019. In view of the same, the prospect of an Expression of Interest by a Prospective Resolution Applicant appears dim. Since, there is no liquidation estate to distribute, even during the Liquidation period there is a minimal possibility of any recovery/realization of the amount as claimed by the Operational Creditor.

Therefore, in view of the aforesaid reasons and circumstances, prior to the constitution of Committee of Creditors on 27.06.2023. the Applicant is in receipt of a Letter and Form FA from M/s. Setu Advertising Private Limited, wherein the Operational Creditor has expressed its concern that it wants to close the CIRP process and withdraw the matter at the earliest.

In response to the query raised by this Bench with regard to the fees of the IRP, the counsel appearing for the IRP Mr. Manoj Mishra submits that the Operational Creditor has paid Rs. 3,00,000/- as initial CIRP cost as ordered by this Tribunal in the order and accordingly he has appropriated the same towards fees and expenses. When this Bench raised query as to how much expenditure he has incurred for paper publication etc., he could not show proper proof of expenditure and therefore this Bench reasonably estimated the expenditure with the consent of the counsel appearing for the RP at Rs. 75,000/- and a reasonable fee of RP at Rs. 1,00,000/- since he has not done anything except issuing paper publication inviting claims. Hence, this Bench hereby directs the IRP to refund back Rs. 1,25,000/- to the Operational Creditor through any authenticated mode of transfer within one week from the date of uploading of the order and shall file compliance affidavit before the Registrar failing which the conduct of IRP will be intimated to the IBBI.

Accordingly, the above application is allowed by withdrawing the CIRP Order dated 06.06.2023 and by releasing Corporate Debtor from all the rigours of moratorium.

Sd/-

ANU JAGMOHAN SINGH
Member (Technical)

Jagdish

Sd/-

H.V. SUBBA RAO
Member (Judicial)