

**IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CUTTACK**

I.A. (IB) No. 171/CB/2022

In

I.A. (IB) No. 136/CB/2022

Connected with

C.P.(IB) No.152/CTB/2019

In the Matter of:

Application filed under Rule -11 of NCLT Rules, 2016 for modification of order dated 15.06.2022 passed in IA (IB) No- 136/CB/2022

In the Matter of:

Saroja Kumar Prusty, Interim Resolution Professional of Fortune Spirit Ltd.

...Applicant/IRP.

In the Matter of:

Unigold System,

... Operational Creditor

-Versus-

Fortune Spirit Limited,

...Corporate debtor

Appearances (through video conferencing)

For the Applicant /RP : Mr. Saroj Kumar Prusty, RP.

Order reserved on: 18.07.2022

Order pronounced on: 02.08.2022

Coram:

Shri P. Mohan Raj : Member (Judicial)
Shri Satya Ranjan Prasad : Member (Technical)

ORDER

Per P. Mohan Raj, Member, (Judicial)

1. This is an application filed by Interim Resolution Professional of Corporate debtor Fortune Spirit Limited under rule 11 of National Company Law Tribunal ,2016 for a modification of order dated 15.06.2022 passed in I.A No. 136/ CB/2022.

2. In CP. (IB) No- 152/CTB/2019 CIRP was ordered by this authority on 25 .04.2022. After the ordering CIRP against the corporate debtor before formation of COC application for withdrawal under Section 12 A was filed by the Interim Resolution Professional in IA. 136 /CB/2022 in which order was passed on 15.06.2022 directing the operational creditor to deposit a sum of Rs. 3, 56,100/- towards the actual expenses incurred in the said matter into the Bank Account of the corporate debtor within three days as provided under Rule 30A (7) of IBBI (Resolution Process for corporate persons) Regulations, 2016.

3. On the petitioner side has not complied the said direction now this petition has been filed through IRP to modify the order dated 15.06.2022 instead

of depositing the CIRP expenses amount into the Bank account of the corporate debtor, permitting to deposit the amount into the Bank Account of the IRP. The actual expenses include the fee of the IRP. Further, once the matter is finally disposed of the Interim Resolution Professional become functus officio. In this matter the expenses incurred towards the CIRP by the corporate debtor should be replaced by the petitioner. Accordingly, petitioner was directed to deposit the amount into the Bank account of the corporate debtor. Now IRP stated in this petition that the account of the corporate debtor is in operative hence sought modification. As already stated, the amount is payable to the corporate debtor only; the same cannot be ordered to any other person's account including the account of IRP.

5. Further, when the statute directed something to be done in particular manner it should be done in the same manner. The present petition prayer is in contravention of the Rule 30 A (7) of IBBI (Resolution Process for corporate persons) Regulations, 2016. Hence, the plea of the petitioner is turndown.

In the result petition is **DISMISSED**.

6. The Registry is directed to encash the Bank Guarantee since petitioner not deposited the amount into the account of corporate debtor as ordered on 15.06.2022.

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7. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps,

8. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

SATYARANJAN PRASAD Digitally signed by SATYARANJAN PRASAD
Date: 2022.08.02 12:53:40 +05'30'

Satya Ranjan Prasad
Member (Technical)

PANDIAN Digitally signed by PANDIAN
MOHAN RAJ
Date: 2022.08.02 13:40:01 +05'30'

P. Mohan Raj.
Member (Judicial)

Signed on this 2nd day of August, 2022

Supriya. P.s