IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 2

ITEM No.302
IA/771(AHM)2022
in
CP(IB)/242(AHM)2021

Order under Section 19(2) r.w 25(2) (a) IBC

IN THE MATTER OF:

Tejas K Shah RP for DNB Impex Private Limited ....**Applicant**
V/s
Bharatbhai Jerambhai Gyani & Anr ....**Respondent**

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-	S/d-
DR. V. G. VENKATA CHALAPATHY	**CHITRA HANKARE**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

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

IA No. 771 of 2022
in
C.P. (IB) No. 242 of 2021

<u>In the matter of</u>:
Mr. Tejas K Shah
Resolution Professional of
M/s. DNB Impex Private Limited
Having a Registered address at:
B-201, Narayan Krupa Avenue,
Opp. Prernatirth Derasar,
Jodhpur, Satellite,
Ahmedabad, Gujarat – 380015 **…….Applicant**

Versus

1. Mr. Bharatbhai Jerambhai Goyani
Suspended Management of
M/s. DNB Impex Private Limited
Having an address at:
301, Kedarkunj Appartment,
Near Saraswati School,
Honey Park Road,
Adajan, Surat – 395009

2. Mr. Dilipbhai Jerambhai Goyani
Suspended Management of
M/s. DNB Impex Private Limited
Having a Registered address at:
53, Jaldarshan Society,
Near Savji Korat Bridge,
Nana Varachha, Surat – 395006.

…….Respondents

Order pronounced on: 17.01.2024

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

Appearance:
For the Applicant: Mr. Urvesh Gor, Advocate
Mr. Sumit Parikh, Advocate
For the Respondent: None

JUDGMENT

1. This is an application filed under Section 19(2) read with Section 25(2)(a) of the IB Code, 2016 by the RP Mr. Tejas K Shah of M/s. DNB Impex Private Limited seeking appropriate directions/orders from this authority regarding non-cooperation by the Suspended Board of Management.
2. The Applicant / RP submitted that despite several reminders, the following documents/information had not been received from the Suspended Board of Management:
   a. Copy of Audited Financial Statements, Audit Reports, Annual Reports, Tax Audit Reports, Secretarial Reports and Income Tax Computations and acknowledgement for Financial Year 2016-17, 2017-18, 2018-19, 2019-20, 2020-21 and 2021-22.
   b. Copy of provisional financial statements for the current financial period from 01.04.2022 to 22.07.2022;
   c. Soft Copies of Books of Accounts and Data of Software from 01.04.2014 onwards.
   d. Assets and Liabilities as on the Insolvency commencement date, that is as of 22.07.2022.

e. The individual account-wise amount outstanding/receivable with names and addresses of Creditors, Debtors and other receivables and payable accounts as of the date of commencement of CIRP, that is as of 22.07.2022.

f. Details of debt due from or debt due to the Corporate Debtor with respect to the related parties.

g. Details of guarantee that have been given in relation to the debt of the Corporate Debtor by other persons/entities, specifying which guarantor is the related party.

h. Details of workers, employees, their designations and their total outstanding as of the date of CIRP Commencement, that is as of 22.07.2022.

i. The copies of the latest returns filed by the corporate debtor, namely GST, ROC, Local authorities etc.

3. In addition to the above following details were requested which are still pending:

   a. Copies showing ownership of assets of the entity;

   b. The details as to the software, if any, used by the entity for writing accounts and operations of the entity and the levels of authority and controls maintained.

c. The names, addresses, telephone and email id of Statutory and other Auditors, Consultants and Guarantors of the entity;

4. As per the order dated 13.07.2023, None appears for the Respondents/Suspended Board of Management. The right to file a reply was closed. In subsequent hearings dated 17.04.2023 and 19.05.2023, no one has appeared for the Respondents. Therefore, the Respondents are proceeded Ex-parte.

5. Heard the submissions made by the Ld. Counsel for the Applicant and perused the document on record. 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 by her 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.

6. 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 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. The applicant is directed to serve a fresh notice with a copy of this order to the respondents immediately and if the respondents fail to cooperate with the applicant and does not provide the necessary documents which are listed to have been not made available within 7 days, then on an application from the RP, this Tribunal will be constrained to issue of necessary orders in the matter.

iv. We directed the Resolution Professional to submit a compliance report for the above directions in the matter by 30th January 2024.

S/d- S/d-

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

CHITRA HANKARE
MEMBER (JUDICIAL)