

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - I

ITEM No.301
IA/256(AHM)2023
in
CP(IB) 407 of 2020

Order under Section Rule 11 of NCLT Rules, 2016

IN THE MATTER OF:

Ajit Gyanchand Jain Erstwhile IRP of Maximaa Systems Ltd
V/s
Mayur Balubhai Shah & Ors

.....Applicant

.....Respondent

Order delivered on 24/04/2024

Coram:

Mr. Shammi Khan, Hon'ble Member(J)
Mr. Sameer Kakar, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

-Sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-

SHAMMI KHAN
MEMBER (JUDICIAL)

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-I**

IA/256(AHM)2023

in CP. (IB) 407 of 2020

(An application under Rule 11 of the National Company Law Tribunal Rules, 2016 for payment of outstanding fees & expenses due to the Applicant – Erstwhile IRP of Maximaa Systems Limited)

Mr. Ajit Gyanchand Jain

Erstwhile IRP of Maximaa Systems Limited
204, Wall Street 1, Opp. Orient Club
Nr. Gujarat College, Ellisbridge,
Ahmedabad 380006
Mail Id: ajit@vcanca.com

.....Applicant/IRP

VERSUS

1. Mayur Balubhai Shah

(Member of the suspended Board of CD)
E Road, Pali Hill 3,
Tithal Road, Valsad,
Gujarat, India-396001

2. Mahesh Balu Shah

(Member of the suspended Board of CD)
N Road. Pali Hill 3, Tithal Road,
Valsad, Gujarat, India-396001

3. Manoj Balubhai Shah

(Member of the suspended Board of CD)
1602, Samarpan Royale,
Off Western Express Highway,
Metro Mega Store,
Megathane Telephone Exchange,
Mumbai, Maharashtra 400066

4. Committee of Creditors

Through Bank of India –
Sole Member of CoC
Malad West Branch
S.V. Road,
Opp. Natraj Market,
Malad West, Mumbai, Maharashtra - 400064

.....Respondents

Order pronounced on 24.04.2024

CORAM:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)
SH. SAMEER KAKAR, HON'BLE MEMBER (TECHNICAL)

APPEARANCE:

For the Applicant /IRP : Mr. Viswas V. Shah, Adv. a.w.
Mr. Vinod Kr. Shah, (PCS)
For Respondent No.1 & 3 : Ms. Hirva Dave, Advocate
For Respondent No.4 : Mr. Kuldeep Adesara, Advocate
For Respondent No.2 : None.

ORDER

[Per Bench]

1. This is an application filed by Erstwhile IRP of the Corporate Debtor under Rule 11 of the NCLT Rules, 2016 seeking the following relief:

Your Lordship may be pleased to issue suitable directions to respondents for payment of Rs. 1,85,500/- as outstanding fees of IRP with taxes & Rs. 38,798/- towards expenses aggregating Rs. 2.24,298 and or any other directions as may be deemed fit in the interest of justice.

2. It is stated that by order dated 28.11.2022, this Tribunal admitted an application under Section 10 of IBC, 2016 and appointed the applicant herein as IRP.
3. Pursuant to the public announcement claims were received and CoC was firmed with sole CoC Member being Bank of India. It is submitted that the applicant herein has incurred various expenses relating to CIRP of the Corporate Debtor aggregating to Rs.51,118/- and for which a table has been provided on page – 5 of the application.
4. It is stated that Corporate Debtor has agreed for a fee of Rs. 2,25,000/- and for which an engagement letter is attached as Annexure-D.
5. It is stated that 1st CoC meeting was held on 27.12.2022 whereat the sole CoC member elected the resolution for approval of the fee however, passed resolution in connection with the expenses except to the extent of publication Form A and e-voting.
6. CoC decided thereafter change the IRP.
7. It is stated that the suspended Member of the Board of Corporate Debtor paid the IRP a sum of Rs. 80,000/- and sum of Rs. 2,24,298/- is pending, for which details are provided in table below:

Sr. No.	Particulars	Amount
1	Advocate fees for filing of application for CoC (Committee of Creditors)	11,000/-
2	Challan Fees for intimation to RoC of the CIPR admission order by filing of INC-28	600/-
3	RoC Search for Corporate Debtor and related Companies	600/-
4	Speed Post of intimation letters (Approx. 60)	2272/-
5	Notary for CoC Constitution & GST NOC certificate	1000/-
6	Printing, Stationary, scanning	811/-
7	Visit Expenses: a. Travel to Mumbai & return airfare for handover of CD – Rs. 20,932/- b. Food expenses – Rs. 795/- c. Conveyance – Rs. 788/-	22,515/-
8	Fees of IRP with taxes (Rs. 2,65,500 – 80,000)	1,85,500/-
		2,24,298/-

8. A reply was filed by Respondent no. 4 being a sole CoC member under diary No. D-4561 dated 29.11.2023. It is stated under para -2 as under:

It is humbly submitted that Respondent No. 4 Bank of India as a Sole member of CoC has made payment of an amount of Rs. 2,66,400/- on 20/03/2023 against the Invoice raised by the Applicant dated 17/03/2023 for serving as Interim Resolution Professional from 29/12/2022 to 04/02/2023. Further BOI has made payment of an amount of Rs. 5,171/ on 20/03/2023 for Professional Fees incurred for GST registration as per Invoice raised by the Applicant dated 17/03/2023.

9. It is stated that expenses to the tune of Rs. 38,798/- were not ratified and hence, not paid. This Tribunal vide order

dated 28.11.2022 in C.P. (IB) No. 407/2020 directed as under:

"We direct the Applicant/Authorized Person to pay the IRP a sum of Rs. 50,000/- as fees and expenses till CoC decides about his fees and expenses."

10. It is humbly submitted that Applicant has already received an amount as per the order of this Hon'ble Adjudicating Authority from the Suspended Management against the initial fees and expenses incurred by the Applicant as the erstwhile IRP till the First Meeting of Committee of Creditors.
11. Further, the Respondent BOI as sole member of CoC has already paid an amount of Rs. 2,64,400/- for his services rendered as Interim Resolution Professional from 29/12/2022 to 04/02/2023 and further made payment of an amount of Rs. 5,171/ on 20/03/2023 for Professional Fees incurred for GST registration.
12. However, it is humbly submitted that if this Hon'ble Adjudicating Authority directs, the Respondent BOI as Sole member of CoC is ready and willing to make payment of Rs. 38,798/ being initial expenses incurred by Applicant as Erstwhile Interim Resolution Professional.
13. No reply was filed by the other respondents in the matter. However, Respondent No.1 and 3 filed written submissions on 09.04.2024 vide Diary No,3048.

14. We have heard the various learned counsels. It is an admitted position that this application seeking commencement of CIRP was filed by the Corporate Debtor and that certain expenses has been incurred by the IRP during the CIRP of the Corporate Debtor.
15. The CoC has not ratified the full expenses and the fees of the IRP and as such the claim of the applicant against CoC has not been acknowledged as CIRP costs. Considering the reply of the CoC and as there are no assets as per the Form -H filed by the resolution professional in IA/1005(AHM)2023, relying upon para - 8 of the reply of Respondent No. 4, we direct the sole CoC member to pay a sum of Rs. 38,798/- to the Corporate Debtor within period of 7 days, from the date of this order provided the same has not been paid so far.
16. With the above direction, this application being **IA/256(AHM)2023** is hereby disposed of.
17. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Learned Counsel for information and for taking necessary steps. Files be consigned to the record.

-Sd-
SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-
SHAMMI KHAN
MEMBER (JUDICIAL)

MD