IN THE NATIONAL COMPANY LAW TRIBUNAL,
NEW DELHI BENCH
COURT III

IA. 5705/2020
In
C.P(IB)- 1683(ND)/2018

<u>In the matter of:</u>

M/s Crayon Software Exports India Pvt. Ltd.

...Financial Creditors

Versus

M/s Vas Data Services Pvt. Ltd. **...Corporate Debtor**

<u>In the matter of 5705/2020</u>

M/s Indian Sources
Mr. Vishal Mehra
Sole Proprietor
C-210, Sector-65,
Noida, Uttar Pradesh-201301

Versus

M/s Vas Data Services Pvt. Ltd.
Through Resolution Professional

Order delivered on 20.05.2022

Coram:

Shri Bachu Venkat Balaram Das
Hon'ble Member (Judicial)

Shri Narender Kumar Bhola
Hon'ble Member (Technical)

Applicant	Adv. Rohit Oberoi
Resolution Professional	Adv. Pankaj Jain

ORDER

Per: NARENDER KUMAR BHOLA, MEMBER (TECHNICAL)

1. The present application has been filed by the Applicant for seeking directions:

   i. Direct the Resolution Professional to provide the minutes of the Committee of Creditors as have taken place and the Resolution Plan as has been approved by the Committee of Creditors to the Applicant;

   ii. Direct the Resolution Professional to apprise the Applicant about the future meetings of the Committee of Creditors as may take place in the future;

   iii. Direct the resolution Professional to provide the C-Forms for the Invoices, goods for which were duly received and detailed in Annexure-A8;

2. The facts that led to the filing of the present contempt application are as follows:

   a. It is submitted that the applicant is operational creditor of the corporate debtor and filed IB-2445/ND/2019 and this Authority vide order dated 09.10.2019 directed the applicant to file the claim before the resolution professional. In pursuant to that, the applicant filed claim before resolution professional vide email dated 18.10.2019 and same was acknowledged vide email dated 19.10.2019. After that there is exchange of letter between the applicant and resolution professional regarding balance confirmation.

The applicant was also informed that the status of the claim can be checked through website of corporate debtor.

b. It is further submitted that due to covid, the applicant could not follow up with the resolution professional, however, the resolution also failed to intimate the applicant about the CIR Proceeding. It is stated that the applicant received another Notice from the Sales Tax/ GST department regarding the non-filing of the C forms for the sale done to the corporate Debtor and the penalty as levied on the said amount. The total amount as required to be deposited vide the said Notice ran into Rs. 8,72,944/- which the Applicant was being burdened with due to the non-compliance of the statutory rules by the Corporate debtor. It is further stated that the applicant in utter shock came to know that the CoC is has approved the resolution plan and the applicant have been kept away from the meetings of the CoC as well as the decision regarding approval of resolution plan.

c. It is averred that the resolution Professional was to look into the claim of the Applicant and to comply with the statutory rules ought to have provided the relevant C forms so that the Applicant is not put to further loss due to the inaction/ illegal actions of the Corporate debtor, therefore, the Applicant seeks directions to the Ld. Resolution professional, thereby directing him to provide the Applicant with the necessary minutes of the meetings of CoC as has taken place along with the resolution Plan as has been approved by the CoC. Further the Resolution Professional be directed to intimate the Applicant about the meetings of CoC as may take place in the future and the details of the Invoices for which the C-Form which is pending from the side of the Corporate Debtor are detailed herewith and marked as Annexure-A8.

d. It is further stated that the application is also necessitated as in case the resolution Professional is able to get the C-forms as are pending given to the Applicant, he shall be able to comply with the statutory rules and shall be saved from the penalties as may arise due to the Non—Compliance. The same shall also be beneficial for the corporate debtor, as the claim of the Applicant shall be restricted and the penalties as the levies as may be levied upon the applicant shall not be payable due to the compliance.

3. The respondent resolution professional has filed the response to the present application and submitted that claim of the applicant is barred by limitation as the applicant has come after more than 800 days from the CIRP commencement date i.e., 09.04.2019 have passed and further argued mainly with respect to the prayer regarding direction to the resolution Professional to provide the C-Forms for the Invoices, goods for which were duly received and detailed in Annexure-A8 and submitted that these C-Forms are related to the year 2016, which is more than 2 years from the date of commencement of CIR Proceeding and same are not in possession of Resolution Professional as suspended board is not

cooperating and emphasised on the provisions of Section 18(a) of IBC, 2016, hence, prayed that application may be dismissed as the resolution professional is not duty bound to determine the financial position of the corporate debtor beyond business operation for the two previous years.

4. We have perused the contents of the application and also heard the arguments advanced by the concerned parties. Before arriving to any conclusion, it is pertinent to note that the CIRP was initiated by this adjudicating authority vide order dated 09.04.2019 and the applicant is seeking C-forms of the year 2016. It also important to look at the section 18 of the IBC, 2016:

> ***18. Duties of interim resolution professional. -***
>
> *The interim resolution professional shall perform the following duties, namely: -*
>
> > *(a) collect all information relating to the assets, finances and operations of the corporate debtor for determining the financial position of the corporate debtor, including information relating to-*
> >
> > > *(i) business operations for the previous two years;*
> > > *(ii) financial and operational payments for the previous two years;*
> > > *(iii) list of assets and liabilities as on the initiation date; and*
> > > *(iv) such other matters as may be specified;*

5. From the plain reading of the above provision it is clear that the resolution professional is only bound to include information for previous two years and not beyond that and as per record, CIR

Process of Corporate Debtor commenced 09.04.2019, therefore, the resolution professional is duty bound to have financial position of Corporate Debtor for the year F.Y. 2017-18 and 2018-19 and not for the year 2016, hence, we find no merit in the application and same is **dismissed** being devoid of merit. Any other relief prayed by the applicant, if not dealt with specifically, stands dismissed.

6. The order is pronounced by this adjudicating authority through virtual mode.

-Sd- S-d-

(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)

(NARENDER KUMAR BHOLA)
MEMBER (TECHNICAL)