

**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)**

**IA No. 738/23
in
IA No. 851/2020
In
CP (IB) No.286/Chd/Pb/2018
(admitted)**

**Under Section. 35(1) (i) & (n) of IBC,
2016 read with Regulation 6(1) of the
IBBI (Liquidation Process)
Regulations, 2016**

In the matter of:

Punjab National Bank

....Financial Creditor/Non-Petitioner

Versus

M/s. Rama Krishna Knitters Private Ltd.

....Corporate Debtor/Non-Respondent

Present :

For the Applicant in

IA No. 851/2020 : Mr. Abhishek Anand, Advocate
Mr. Viren Sharma, Advocate

For respondent in

IA No. 851/2020 : Mr. Pankaj Khullar, Advocate

For applicant in IA No

IA No. 738/2023 : Ms. Meenu Marwaha, Advocate

IA No. 738/2023

IA No. 851/2020 has been fixed for pronouncement today, however,
before the pronouncement of the order on the application, Ms. Meenu

IA No. 738/23
in
IA No. 851/2020
In
CP (IB) No.286/Chd/Pb/2018
(admitted)

Marwaha, Advocate, mentioned that an IA No. 738/2023 had already been filed for setting aside the order dated 24.02.2023 in IA No. 851/2020 and the aforesaid application may be considered before the pronouncement.

On the aforesaid submission of the learned counsel for the applicant in IA No. 738/2023, the application, which has been fixed for 19.07.2023, called for from the Registry and preponed for today, and the same is taken up for consideration.

On perusal of the application, it is noticed that since the respondent had not appeared in application No. 851/2020 for the last two hearings till the order was reserved, nor any ex-parte order was passed. The reply filed by the respondent/applicant has been considered on merits before reserving the order. Therefore, the application filed for setting aside the order dated 24.02.2023 is rendered infructuous and disposed of accordingly.

IA No. 851/2020

Vide separate order of the even date, the application bearing IA No. 851/2020 is allowed and disposed of accordingly.

Sd/-
(Subrata Kumar Dash)
Member (Technical)

Sd/-
(Harnam Singh Thakur)
Member (Judicial)

May 30, 2023
PB

IA No. 738/23
in
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In
CP (IB) No.286/Chd/Pb/2018
(admitted)

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In the matter of:

Punjab National Bank

....Financial Creditor/Non-Petitioner

Versus

M/s. Rama Krishna Knitters Private Ltd.

...Corporate Debtor/Non-Respondent

And in the matter of IA No. 851/2020:-

Rajender Kumar Jain, Liquidator
M/s. Rama Krishna Knitters Private Limited
having its office at
H.No. 3698/1. First Floor, Sector-46-C,
Chandigarh-160047

...Applicant/Liquidator

Vs.

Mr. Sanjay Kalra,
Chartered Accountant,
having its office at
24, (Basement) Manakvihar,
I.P. Extn. PT-II, Delhi-110092
Statutory Auditor

Order delivered on: 30.05.2023

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)**

Present :

For the Applicant in

IA No. 851/2020 : Mr. Abhishek Anand, Advocate
Mr. Viren Sharma, Advocate

For respondent in

IA No. 851/2020 : Mr. Pankaj Khullar, Advocate

Per: Subrata Kumar Dash, Member (Technical)

ORDER

IA No. 851/2020

The present application has been filed by the Resolution Professional under section 35(1) (i) & (n) of the Insolvency and Bankruptcy Code, 2016, read with regulation 6(1) of the IBBI (Liquidation Process) Regulations, 2016 for issuance of appropriate directions to the statutory auditor to conduct an audit or give his No Objection Certificate to enable the applicant to appoint another auditor.

2. It is stated that an application bearing company petition number 286/Chd/Pb/2018 u/s 7 of the Code was filed by the financial creditor, Punjab National Bank, and this adjudicating authority admitted the said application and appointed Mr Rajendra Kumar Jain as the IRP and vide order dated 24/12/2019 of the liquidation of corporator by this Adjudicating Authority, Mr Rajendra Kumar Jain was further appointed as the liquidator of the corporate debtor.

IA No. 851/2020
In
CP (IB) No.286/Chd/Pb/2018
(admitted)

3. It is further stated that during the CIRP, it was brought to the notice of the applicant that the financial statements for the Financial Years (FYs) 2017-2018 and 2018-2019 stood unaudited. The applicant requested the respondent, Mr Sanjay Kalra, who was the statutory auditor of the corporate debtor, to audit the books of accounts for the above said period, but the respondent failed to do so and informed the applicant about the outstanding dues of the respondent.

4. It is averred that through various correspondences between the applicant and the respondent vide emails, the applicant repeatedly sought for completion of the statutory audit pending for FYs 2017-2018, 2018-2019 and from 01.04.2019 till 24.12.2019 (Liquidation Commencement Date), or alternatively, provide a resignation along with a No Objection Certificate.

5. The respondent in his reply, quotes the resolution passed by the corporate debtor on 25.06.2015, which appointed statutory auditors of the Company for a period of 5 years ending with the financial year 2018-2019 and to hold office till the conclusion of the Annual General Meeting to be held in 2019 subject to ratification each year in the Annual General Meeting and was never ratified for the appointment as statutory auditor for Financial Year 2017-2018 of the company.

6. Through the rejoinder, the applicant further brings forward the fact that the corporate debtor had appointed the respondent as statutory auditor of the Company in the Annual General Meeting held on 25.06.2015, which was valid till the audit of the Financial Year 2018-2019, which was also duly consented by the respondent in Form ADT-1 (Annexure R-1 of the Rejoinder).

7. We have heard the learned counsels for the parties and have perused the records carefully.
8. On perusal of Form ADT-1 filed by the corporate debtor, the appointment of the auditor's Form S. Kalra & Associates is clearly shown to have been for the period from 01.04.2015 to 31.03.2019. The same is also reflected in the resolution passed by the members of the corporate debtor.
9. The respondent appointed Statutory Auditor of the Company has, therefore, no basis for rejecting the offer of the corporate debtor. Be that as it may, the respondent is directed to indicate his consent or otherwise to carry out the required audit of the corporate debtor within seven days of this order. In case of his refusal to take up the assignment, he is directed to give NOC within the said period of seven days of the corporate debtor so that a new statutory auditor may be appointed as per law.
10. In the result, IA No. 851/2020 is allowed and disposed of accordingly.

Sd/-
(Subrata Kumar Dash)
Member (Technical)

May 30, 2023
PB/JGS

Sd/-
(Harnam Singh Thakur)
Member (Judicial)