

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH
(Through web-based video conferencing platform)

CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER

SHRI RAGHU NAYYAR,
HON'BLE TECHNICAL MEMBER

IA No. 424/JPR/2019
In CP No. (IB)- 205/7/JPR/2019

(Under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

IN THE MATTER OF

PUNJAB NATIONAL BANK

... Financial Creditor

VERSUS

ATLAS ALLOY (INDIA) PVT. LTD.

... Corporate Debtor

AND IN THE MATTER OF:

IA No. 424/JPR/2019

Atlas Alloy (India) Pvt. Ltd.

through its Resolution Professional, Mr. Satyendra Prasad Khorania
 402, 4th Floor, OK Plus DP Metro,
 Opp. Pillar No. 94, New Sanganer Road,
 Jaipur-302019 (Rajasthan)

...Applicant

VERSUS

Girish Baduni S/o Mr. Gopal Dutt Baduni
 D-37, Mahesh Nagar,

Sd—

Sd—

80 Feet Road, Jaipur- 302015
(Rajasthan)

Also At:

310-B 'Kashi Vishwanath' Adarsh Nagar,
Ajmer Road, Beawar- 305901 (Rajasthan)

...Respondent No. 1

Kumud Baduni D/o Mr. Heera Lal Pradhan

310-B 'Kashi Vishwanath' Adarsh Nagar,
Ajmer Road, Beawar- 305901 (Rajasthan)

...Respondent No. 2

R.C. Goyal & Company

Chartered Accountants

Statutory Auditor of Atlas Alloy (India) Pvt. Ltd.

Agersen Bazar, Mahadev Ji Ki Chatri,
Beawar- 305901 (Rajasthan)

...Respondent No. 3

For the Applicant : **Amol Vyas, Adv.**

For the Respondent : **Nikhil Jain, Adv.**

Order pronounced on: 31.01.2022

ORDER

Per: Shri Deep Chandra Joshi, Judicial Member

1. This IA has been filed by the Resolution Professional ('RP') of M/s Atlas Alloy (India) Pvt. Ltd. ('Corporate Debtor') under Section 19 of Insolvency and Bankruptcy Code, 2016 (the 'Code'/ 'IBC'). The Adjudicating Authority *vide* order dated 20.09.2019 admitted the application under Section 7 of the IBC, filed by the Financial Creditor

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against the Corporate Debtor in the above-mentioned matter and Mr. Satyendra Prasad Khurania was appointed as IRP. Subsequently, the first meeting of the Committee of Creditors ('CoC') was conducted on 17.10.2019 and IRP Mr. Satyendra Prasad Khurania was appointed as RP.

2. In the present application, it is stated that the directions passed in the CP No. 205/7/JPR/2019 could not be complied with as the personnel of the corporate debtor are not extending their assistance and cooperation to the RP and prayed that directions enumerated in the application may be given to the respondents including the following: -

I. This Application may kindly be allowed and necessary orders may kindly be passed.

II. The suspended Directors of the Corporate Debtor and Statutory Auditor of the Corporate Debtor may be directed to provide all the documents and records (Hard/Soft Copy) to the RP Along with the documents specifically asked.

III. To provide the information/ clarifications asked for and full cooperation to RP in carrying the statutory duties under IBC.

IV. The suspended Directors of the Corporate Debtor may be penalized by this Bench as per Section 68 of Code.

V. The suspended Directors may be directed to stay in India during the CIRP

VI. Any other directions/order as may deem fit.

3. It has been submitted by the applicant that the Annual General Meeting (AGM) was last held on 30.09.2016 and its balance sheet was last filed on

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31.03.2016 as per the information available on the Ministry of Corporate Affairs' (MCA) Website.

4. Respondent Nos. 1 and 2, who are Suspended Directors of the Corporate Debtor in their reply denied the averments made in the application and stated that the Financial Creditor has suppressed material facts from the Adjudicating Authority.
5. Respondents in their reply also submitted that the Financial Creditor has deliberately concealed various relevant and material facts from the Adjudicating Authority and the present application filed under Section 19 of the IBC is not maintainable as the information about the CIRP order dated 20.09.2019 was not given to the erstwhile directors.
6. It is also stated in the reply that the Financial Creditor took possession of the factory of the Corporate Debtor, M/s Atlas Alloy (India) Private Limited under SARFAESI Act, 2002 and thereafter took the physical possession of the factory and all the finished products, raw material, plant and machinery, office equipment, account books, records and other assets by the order of District Magistrate dated 20.04.2018.
7. Respondents in their reply also stated that they are willing to extend their support to the Resolution Professional and are willing to provide all types of help to the Resolution Professional in furtherance of the CIRP process. However, the Respondents in their submissions also stated that the application be dismissed.

Sd—

Sd—

8. Section 19(1) of the IBC provides that the personnel of the Corporate Debtor, its promoters or any other person associated with the management of the Corporate Debtor shall extend all assistance and cooperation to the Resolution Professional as may be required by him in managing the affairs of the Corporate Debtor.
9. The Adjudicating Authority on receiving an application under Sub-section (2), shall by an order, direct such personnel or other persons to comply with the instructions of the Resolution Professional and to cooperate with him in the collection of information and management of the Corporate Debtor.
10. Considering arguments advanced, submissions put forth and documents placed on the record, application of the Resolution Professional is allowed and Respondents are directed to extend their full cooperation and support to Resolution Professional and provide all the documents and records enumerated in the application.

11. The RP shall be at the liberty to approach this Adjudicating Authority in case of any breach of the direction given by this Adjudicating Authority. The non-compliance with the aforesaid direction would attract strict penalties.

Accordingly, IA No. 424/JPR/2019 stands disposed of.

Sd—

(Raghu Nayyar)
Technical Member

Sd—

(Deep Chandra Joshi)
Judicial Member