IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT NO. V

M.A. 408 of 2020
IN
C.P. (IB) 3804/MB/2018

Under Section 19(2) of IBC, 2016.
In the matter of
Mr. Pankaj Sham Joshi,
Interim Resolution Professional,
.....Applicant
Vs
Mr. Bharat Harwani and Ms. Saraswati Harwani,
Promoter and Director of Win Trendz Exim Pvt. Ltd.
Order delivered on: 20.03.2020

Coram:
Hon'ble Smt. Suchitra Kanuparthi, Member (J)
Hon'ble Shri. Chandra Bhan Singh, Member (T)

For the Applicant: Ms. Samishka Manek, Mr. Subir Kumar Advocates, Mr. Pankaj Joshi and Mr. Ayush J. Rajania, Chartered Accountant
For the Respondent: Mr. Bhavik Salia, Advocate

Per: Chandra Bhan Singh, Member (T)

ORDER

1. M.A. 408/2020 in C.P. 3804/2018 has been filed by the Interim Resolution Professional (IRP) in the matter of Reliance Capital Limited V/s. Wiz Trendz Exim Private Limited. This application has been filed by the IRP under section 19(2) of the IB Code read with section 65 of the Code praying for the issuance of providing direction against the Respondent to extend full co-operation to the IRP and directing the ex-directors /

Representatives of the Corporate Debtor to identify and hand over custody of the assets, control of management and provide official information / documents relating to the Corporate Debtor for conducting the CIRP of the Corporate Debtor. The IRP in his application as mentions the following;

1.1 Due to the utter callousness of the Respondents and their sheer disregard for the CIRP of the Corporate Debtor, the applicant has been unable to carry out his duties under the I & B Code. The applicant has not been able to take possession of the business and assets of the Corporate Debtor, take the accounts of the Corporate Debtor or even determine the current business status of the Corporate Debtor.

1.2 The applicant submits that he is not even in a position to appoint valuers to determine the fair value and liquidation value of the Corporate Debtor since the business and assets of the Corporate Debtor has not been identified and handed over to the applicant by the Respondents.

1.3 The applicant also states that without information about the assets, liabilities and business operations of the Corporate Debtor, the applicant is not in a position to prepare the information memorandum of the Corporate Debtor since the requisite information of the Corporate Debtor as on the Insolvency commencement date is not available with the applicant due to non-co-operation by the Respondents.

1.4 The applicant states that has not even been furnished with the books of accounts, financial statements and bank accounts details of the Corporate Debtor yet by the respondent. The applicant states that, therefore he is unable to determine the current financial or business status of the Corporate Debtor.

2. After hearing the IRP this Bench is of the firm view that the promoters and ex-directors of the Corporate Debtor’s Company namely Mr. Bharat

Harwani and Ms. Saraswati Harwani are not co-operating with the IRP in handing over the assets of the Corporate Debtor and necessary information/ documents relating to the Corporate Debtor. In view of this as prayed by the IRP this Bench directs the Respondent Mr. Bharat Harwani and Ms. Saraswati Harwani any all concerned persons of the Corporate Debtor's Company to comply with / furnish within 7 days of the pronouncement of this order the following;

A. Documents relating to incorporation, shareholding and constitution of the Corporate Debtor

(i) Copies of the constitution documents of the Corporate Debtor i.e. Certificate of incorporation, articles of association and memorandum of association;

(ii) Stamp and seal of the Corporate Debtor

(iii) Residential address of the Directors / Promoters of the Corporate Debtor;

(iv) Name and address and contact details of the company secretary and book keeping accountant;

(v) Minutes book of Board Meetings, AGM etc. maintained by Corporate Debtor

B. Documents relating to assets and liabilities of the Corporate Debtor

(i) Details of all the assets of the Corporate Debtor, both tangible and intangible, movable and immovable, located within and outside the territory of India, along with information regarding,

a. Assets owned and possessed by the Corporate Debtor;

b. Assets owned by the Corporate Debtor and possessed by other party and,

c. Assets which are possessed by the Corporate Debtor and owned by other party.

(ii) Copy of title deeds of all the assets owned by the Corporate Debtor;

(iii) Details regarding the computer, computer servers, office equipment, plant and machinery of the Corporate Debtor;

(iv) Details of all credit facilities, both secured and unsecured, availed by the Corporate Debtor including the facility documents, security documents and outstanding;

(v) Register of loans and loan agreements entered into by the Corporate Debtor;

(vi) Register of registered and unregistered charges on the assets of the Corporate Debtor;

(vii) Details of related parties and associate company or LLP/ details of transactions made by Corporate Debtor with related parties and associate companies;

(viii) Insurance policies taken by Corporate Debtor such as property insurance, keyman insurance etc. inventory of Corporate Debtor and their worth;

(ix) Stock Register.

C. Documents related human resources, Key Managerial Personnel (KMP), Employees and Workmen starting from 01.04.2017

(i) Year-wise details of employees and their salary statements;

(ii) Details of advances made by the Corporate Debtor to employees / workmen;

(iii) ESIC, EPF and Profession Tax returns;

(iv) List and details of all Key Managerial Persons (KMP), Employees and Workers engaged and under service of the Corporate Debtor;

(v) Copies of the appointment letters issued to KMP, Employees and workers and Resignation letters of past employees;

(vi) Copies of claims/ notice received from KMP, Employees and workers, ESIC, EPF if any.

(vii) Monthly salary Register.

D. Documents Related to Financial Assets and Financial Statements for FY 2017-18 onwards

(i) Details of all current accounts opened and maintained by the Corporate Debtor and their latest Bank Statements; including current accounts that were opened and are now closed or are not operated;

(ii) Physical cheque books of all current accounts of Corporate Debtor both past and present;

(iii) Net banking details of all accounts maintained by the Corporate Debtor including debit cards;

(iv) Details of the authorized signatory of all bank accounts maintained by the Corporate Debtor;

(v) Investments made by the Corporate Debtor;

(vi) Soft copy of books of accounts and ledger accounts in tally/ applicable accounting software of the Corporate Debtor in pen drive;

(vii) PAN card of Corporate Debtor;

(viii) Professional tax payments made and returns filed by the Corporate Debtor;

(ix) Income Tax Audit Reports of the Corporate Debtor;

(x) Indirect Tax Registration Certificates;

(xi) VAT Returns (Apr’ 17 to June’ 17 and GST Returns (August’ 2019 to Nov’ 2019) filed by Corporate Debtor;

E. Documents Related to Business Operations since FY 2017-18

(i) Technical details of the services provided;

(ii) Details of ownership, location and maintenance record of software and computer servers/ machinery used to provide services;

(iii) Contact details and transaction details of suppliers and clients of the Corporate Debtors; details of all subscribers under contract, advances received, security deposit received and term of contract, subscription contract/ agreement

(iv) Copies of all invoices and purchase orders;

(v) Details of unpaid bills of suppliers;

(vi) Details of receivables from debtors to the business including related parties, if any;

(vii) Rent agreement for office premises and any other location

(viii) Copy of shop and establishment certificate

(ix) Copies of licenses issued for providing services of internet and cable

(x) Copies of agreements with ISPs for providing services of band-width / network of internet & Cable

F. Documents pertaining to litigation

(i) Details of all pending litigations initiated by the Corporate Debtor;

(ii) Details of all statutory claims made by the statutory authorities against the Corporate Debtor;

(iii) Copies of statutory notices served by statutory authorities on Corporate Debtor

3. In the event, the Respondent do not comply with the order of the Bench and or do not furnish the information as directed above, the Bench would take appropriate punitive action against the Respondent as per the I & B Code.
4. The M.A. 408/2020 disposed off accordingly.

Sd/-	Sd/-
Chandra Bhan Singh Member (T)	Suchitra Kanuparthi Member (J)