

IN THE NATIONAL COMPANY LAW TRIBUNAL  
AT MUMBAI BENCH, C-IV

IA No.3702 of 2023  
IN  
CP (IB) NO. 2176 of 2019

An application under Rule 11 of  
NCLT Rules, 2016.

Filed by

Mr. Mukesh Verma,  
Head of Monitoring Committee

...Applicant

Versus

Mr. Dinesh Jaiswal Gangaprasad  
& Ors.

...Respondents

**IN THE MATTER OF**

Punjab National Bank

...Financial Creditor

Versus

J-Marks Exim (India) Pvt Ltd

...Corporate Debtor

**Order delivered on: 09.11.2023.**

*Coram:*

Ms. Anu Jagmohan Singh  
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli  
Hon'ble Member (Judicial)

***Appearances:***

For the Applicant

: Mr. Prakhar Tandon, Advocate.

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For the Respondent : Mr. Utkarsh Sanadi, Advocate.

**ORDER**

1. The present Application is filed by the Applicant seeking:
  - a. This Hon'ble Tribunal be passed to direct former directors, of the Corporate Debtor to comply with the directions of this Hon'ble Tribunal Vide order dated 19.01.2023 to sign the balance sheets/Financial Statements after verification of the satisfaction of Director and provide other information/documents that may be required by the Applicant;
  - b. This Hon'ble Tribunal be pleased to allow the amendment sought in the order dated 19.01.2023 vide para 17 of this present application;
  - c. This Hon'ble Tribunal be pleased to waive off the penalties for filling of books of accounts, Financial statements and other returns for the period starting 2014 before the Registrar of Companies;
  - d. This Hon'ble Tribunal be pleased to provide the liberty to file the Income Tax Returns before the Income Tax Department for the period stating Ay 2014-2015 after the Financial statements are finalized, without levying of any penalty.
  - e. This Hon'ble Tribunal be pleased to direct the District Administration (Police Officials and etc.) to provide assistance to the Applicant;
  - f. For such other and further reliefs as this Hon'ble Tribunal may deem fit and necessary.
2. The application for initiation for Corporate Insolvency Resolution Process ("**CIRP**") was filed by Punjab National Bank under section 7 of the Insolvency and Bankruptcy Code, 2016 and the same was admitted by this Hon'ble Tribunal vide order dated 26.05.2020.
3. Thereafter, Mr. Mukesh Verma, the Resolution professional filed the IA (IBC)

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1576 (MB) of 2021 Resolution Plan which was approved by this Hon'ble Tribunal on 19<sup>th</sup> April 2023.

4. The Applicant who was earlier the Resolution Professional, who has filed the Interlocutory Application no. 1767 of 2020 under section 19(2) for non-cooperation from the suspended board of directors and management which was disposed off on 19<sup>th</sup> January 2023.
5. The Applicant humbly submits that this Hon'ble Tribunal has specifically directed all the "Members of the suspended board/ ex-directors are directed to sign the Balance Sheets/ Financial Statements submitted by RP within one week after verification and satisfaction of the Directors.
6. The applicant sent an email to Mr Dinesh Jaiswal to review and approve the financials so that the compliances could be completed. Reminder was sent on 25-01-2023. On 27<sup>th</sup> June, Advocate for the Respondent sent an email stating that the data had not been provided to them to which necessary evidence of having provided the data was provided to them. Advocate again sent an e-mail dated 30<sup>th</sup> January 2023 requesting the Applicant of the Corporate Debtor to provide the necessary documents including the confidentiality statement and balance sheet so the Respondent could verify and sign. Thereafter, the Applicant again sent all the financials prepared and reviewed by the auditor along with the observations of the auditor and the changes made by him in separate file.
7. The Applicant was keen to smoothly complete the CIRP proceedings however, the Respondents have not cooperated even after the repeated requests on the e-mail and telephonic communication with the Respondent no. 1.
8. The Applicant vide e-mail dated 9<sup>th</sup> April 2023 requested the Respondents to the send the queries on the financial statements so that the same could be responded to by the accountant/ auditor. The Applicant also informed the

consequences of not providing the queries.

9. The Applicant vide e-mail dated 29<sup>th</sup> April 2023 again requested the Respondents that the Hon'ble NCLT had raised serious concern on the non-cooperation from the Respondents and advised the Applicant to submit a non-compliance report if the Respondent do not extend their cooperation in finalization of the financial statements, even after the audit has been completed.
10. The Applicant is seeking waiver for filing of the Financial Statements before the Registrar of the Companies as the Respondents are not cooperating with the Applicant for finalization of the books of accounts and financial statements. The Suspended management and board of directors have not filed the returns from year 2017 before the Ministry of Corporate Affairs.
11. The Applicant is also seeking waiver of penalties from delayed filing of the Income Tax returns after the financial statements have been finalized. The applicant is effectively seeking condonation of these non-compliances which are a direct result of the non-cooperation of the suspended Board of Directors.
12. The Applicant states that despite repeated written and oral follow-ups, the Respondent is not providing requested information/data to the Applicant. Applicant further states it has been more than five (5) months now the suspended Management/ Directors are not cooperating with the Resolution Professional.

**Findings and Directions:**

13. We have perused records and heard the submissions made by the parties.
14. Regarding prayer in clause a, this Bench has already issued necessary directions vide order dated 19.01.2023 in IA No1767/2020 during the Corporate Insolvency Resolution Process *Members of the Suspended Board/Ex-Directors are directed to sign the Balance sheets/Financial Statements. Hence, no*

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*further directions in this regard are required to be given.*

15. Regarding prayers in prayer clause c, d and e with reference to different statutory authorities, the applicant is directed to approach the appropriate forum for necessary reliefs who may decide the same in accordance with law.
16. With regard to prayer b is concerned, this bench passed a following corrigendum order. In the order dated 19.01.2023, the IA shall be read as "IA 1767/2020 (u/s 19(2) and IA 1576/2021(u/s 30)".  
Rest of the order remains unchanged.
17. In view of above, in I.A. 3702/2023, the prayer "b" is allowed and rest is dismissed.
18. Accordingly, the **IA No. 3702/2023 in CP(IB) No. 2176 of 2019** is disposed of in view of aforesaid directions.

Sd/-

**ANU JAGMOHAN SINGH**  
**MEMBER (TECHNICAL)**  
**09.11.2023.**

Sd/-

**KISHORE VEMULAPALLI**  
**MEMBER (JUDICIAL)**