

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT-IV**

**Interlocutory Application No.2382/ND/2021
IN
Company Petition No. (IB)-177/ND/2019**

IN THE MATTER OF:

M/S. INTEGRATED BATTERIES INDIA PRIVATE LIMITED

... OPERATIONAL CREDITOR

VERSUS

M/S. MAINFRAME ENERGY SOLUTIONS LIMITED

... CORPORATE DEBTOR

AND IN THE MATTER OF:

MR. DEEPAK GUPTA

Erstwhile Resolution Professional

M/s. Mainframe Energy Solutions Private Limited

... APPLICANT

CORAM:

SH. MANNI SANKARIAH SHANMUGA SUNDARAM,

HON'BLE MEMBER (JUDICIAL)

DR. BINOD KUMAR SINHA,

HON'BLE MEMBER (TECHNICAL)

Order Delivered on: 30.10. 2023

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ORDER**PER: SH. MANNI SANKARIAH SHANMUGA SUNDARAM, MEMBER (JUDICIAL)**

The instant application has been filed on behalf of Mr. Deepak Gupta 1 ('Applicant'), Erstwhile Resolution Professional of M/s. Mainframe Energy Solutions Private Limited ('Corporate Debtor') under Rule 11 of National Company Law Tribunal Rules, 2016, inter alia, seeking the following relief(s):-

- a) Consider the present application on urgent basis in the present form and after considering the Report of IBBI regarding CIRP cost, including Professional Fees of the Applicant as IRP in terms of the order dated 09.11.2020 in I.A./3520/ND/2020, direct the CoC (represented 100% by HDFC Bank) to contribute and make payment within a week time of CIRP Cost as determined by IBBI along with interest as deemed just and proper by the Adjudicating Authority, for withholding lawful payment for more than 18 months.
 - b) Pass any other or further order(s)/direction(s) deemed fit in the facts and circumstances of the case and in the interest of justice.
2. Briefly stated the facts of the present case as averred by the Applicant in the present case are that this Adjudicating Authority vide order dated 11.10.2019 had initiated Corporate Insolvency Resolution Process against M/s. Mainframe Energy Solution Private Limited ('Corporate Debtor') under an application (C.P.(IB)/177/2019) filed under Section 9 of the Code,2016 by M/s. Integrated Batteries India Private Limited ('Operational Creditor') and Mr. Deepak Gupta, (applicant herein) was appointed as the Interim Resolution Professional of the Corporate Debtor. The Applicant had performed his duties as Interim Resolution Professional of the Corporate Debtor till 07.10.2020 and was later replaced by Mr. Devender Lodha, who was appointed as Resolution

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Professional of the Corporate Debtor as resolved by Committee of Creditors in its 4th CoC Meeting.

3. The Applicant during his appointment as Interim Resolution Professional of the Corporate Debtor while discharging his duties had engaged services of professionals and incurred various expenditures for compilation of claims, making representation to Government Departments and Banks and for representing the Corporate Debtor before Hon'ble NCLAT and NCLT. The Applicant had placed complete account of expenses incurred while discharging his duties and claim for his professional fees as Interim Resolution Professional before the Committee of Creditors but the CoC in its 4th CoC Meeting had meagerly approved Rs. 1,64,450/- towards CIRP Cost including Professional Fees of the applicant as IRP against a total claimed amount of Rs.21,69,450/-.
4. We have heard the Learned Counsel for the Applicant and perused the averments made in the present application and documents annexed therewith.
5. From the records, we observed that the Applicant had earlier filed an Application i.e., I.A./3520/2020 praying this Adjudicating Authority to decide the CIRP Cost including the fees of the Applicant as Interim Resolution Professional of the Corporate Debtor. This Adjudicating Authority after hearing the I.A/3520/2020 had referred the matter to IBBI for determination of CIRP Cost and Professional Fees of the Applicant as IRP.
6. The Insolvency and Bankruptcy Board of India ('IBBI') had submitted its reply/report dated 12.04.2021 before this Adjudicating Authority. The IBBI in its reply/report dated 12.04.2021 had submitted that the IBBI had constituted a Committee consisting of three members including two Insolvency Professionals and one officer of IBBI to carry out detailed analysis on the quantum of work done by Mr. Deepak Gupta ('applicant') vis-à-vis the charges and expenses

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claimed by him in connection with his assignment as IRP of the Corporate Debtor. The minutes of the deliberations of expert committee on the said issue is provided in Para 15 of the IBBI Report. The tabular representation of the details of expenses as claimed by the Applicant and reasonable fees as deliberated and determined by the expert committee constituted by IBBI is reproduced below: -

S. No.	Details Of Expenses Claimed By Rp	Amount Determined By IBBI In Its Order
1	IRP/RP Fees @1 Lacs Per Month For First Month And @ Rs 75,000/- P.M. For Next Eight Months	7,00,000
2	Bills Of Legal Consultancy And Filing Necessary Applications And Representation Before Adjudicating Authority And Appellate Authority Of Advocate M/S Ruchir Batra & Associates	1,89,500
3	Bills For Filing Applications Before NCLT Of M/s Arora Jitendra & Co.	90,000
4	Cost Of Public Announcement	9,450
5	Conveyance Expenses & Travelling Expenses	27,000
6	Rent Paid For Storage Of Goods Recovered From Corporate Debtor	15,000
7	Court Fees Paid On Filing Of Applications	5,000
8	Printing & Stationary, Postage And Courier Expenses	14,000
	Total	10,49,950

(Tabular representation of the details of expenses as claimed by the Applicant and reasonable fees as deliberated by the Expert Committee)

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7. This Adjudicating Authority vide order dated 12.08.2021 had directed the CoC to make representation before the Insolvency and Bankruptcy Board of India on the issue of quantification of fees and CIRP expenses as claimed by the applicant while discharging his duties as IRP of the Corporate Debtor and the IBBI was to submit its report after considering such representation.
8. The IBBI had submitted its Report dated 06.01.2022 in compliance of this Adjudicating Authority order dated 12.08.2021 wherein it was submitted that the representations of the parties i.e. interim resolution professional and CoC/HDFC Bank (sole member of CoC) were heard on 06. 10.2021 (through video-conferencing and one by one) and on 01.11.2021 (in Person) by the Expert Committee constituted in the instant matter by the IBBI. The Expert Committee conducted its meeting on 01.11.2021, wherein the Expert Committee after considering the facts of the case, representation/ objections made by HDFC Bank and IRP, the earlier deliberations of the Committee and various provisions of the Code/ Regulations in relation to fees/ expense of an IRP/RP came to the conclusion that there was no revision required on the amounts, considered as reasonable by the Expert Committee earlier. The relevant para of the minutes of Expert Committee meeting is reproduced below:-

“8. The committee re-examined details of expenses (including fees) claimed by the IP and subsequently deliberated on the amount that may be considered as reasonable (as against the amount so claimed by IP) while taking into account the work done by IP and supporting documents furnished towards the expenses incurred. The Committee also observed from the minutes of 5th CoC meeting held on November 5, 2020 as submitted by HDFC Bank that the CoC (having HDFC Bank as sole member) itself has fixed the fees of RP (appointed in replacement of IRP) at Rs. 75,000/- per month and out of pocket expenses on actual basis.”

9. Considering the conspectus of facts of the present case and the foregoing discussion, this Adjudication Authority hereby directs HDFC Bank, the sole member of CoC of the Corporate Debtor to pay the CIRP expenses including the fees of the Applicant amounting Rs. 10,49,950/- in the Corporate Insolvency Resolution Process of M/s. Mainframe Energy Solutions Private Limited (“Corporate Debtor”) as determined by the

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Expert Committee constituted by IBBI within a period of 7 (seven) days from the pronouncement of this order.

10. The CoC is also directed to file a compliance affidavit in respect of the present order within a period of 10 days from pronouncement of this order.
11. Resultantly, the present Application i.e., **I.A./2382/ND/2019** in **C.P.(IB)/177/ND/2019** stands allowed.

Sd/-

(DR.BINOD KUMAR SINHA)
MEMBER (T)

Sd/-

(MANNI SANKARIAH SHANMUGA SUNDARAM)
MEMBER (J)

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