

**IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI**  
**COURT-III**

**Item No.302**

CA-871/2019

In

IB-979/(ND)/2019

**IN THE MATTER OF:**

Punjab National Bank

**Vs.**

M/s. Gupta Marriage Halls Pvt. Ltd.

... **APPLICANT/PETITIONER**

... **RESPONDENT**

**SECTION**

**U/s 7 IBC code 2016**

**Order delivered on 02.03.2022**

**CORAM:**

**SHRI BACHU VENKAT BALARAM DAS**  
**MEMBER (JUDICIAL)**

**SHRI NARENDER KUMAR BHOLA**  
**MEMBER (TECHNICAL)**

**PRESENT:**

For the Liquidator

: Mr. Abhishek Anand, Mr. Viren Sharma, Advocates

For the Respondent

: Mr. Rakesh Kumar along with Mr. Aditya Nayyar and  
Ms. Preeti Kashyap Advocate(s) for R3, Adv. Vikas  
Mehta, Adv. Ashish Choudhury, Adv. S C Das for  
Respondent no. 1 and 2

**ORDER**

**CA-871/2019:-**

Counsel for the Liquidator is present. Counsel for the Respondent Nos.1 & 2 is present. Counsel for the Respondent No.3 is present. Upon going through the previous order as passed in this IA, it is observed that vide order dated 03.03.2020, the ex-management was directed to provide tally data with respect to working of the Corporate Debtor to the then RP, now succeeded by Liquidator in the matter. It is seen that the said order is yet to be complied with by the Respondents (Respondent Nos.1 & 2) even after lapse of two years time. Counsel for the Respondents (1 & 2) has taken us through the affidavit dated 26.10.2020 stated to be filed in compliance with the aforesaid order. Counsel for the Respondents (1 & 2) have taken us through the Para 8 of the affidavit





filed by his client wherein the details/inventory documents provided by the Respondents to the Resolution Professional is mentioned. It is seen from the said details that the Respondents (1 & 2) have claimed to have handed over the data balance-sheet to the Corporate Debtor for the year ending 31.03.2016, 2017, 2018 and 2019 along with various other documents.

As regards production of tally data in the very same affidavit, the Respondents (1 & 2) have taken the plea that the macbook computer containing the tally data of the Corporate Debtor was stolen way back in the year January, 2019 and police complaint dated 04.01.2019 was also filed with SHO, Paschim Vihar, West Police Station Paschim Vihar, Delhi, a copy which is available at para 18 of the said affidavit (Annexure-6).

Upon looking at the balance-sheet for the year ending 2018-19, it is seen that the same has been signed by the Ex-Director on 15.05.2019. From this, it is very clear that the statement made by the Ex-Directors vide the present affidavit to the effect that tally data of the Corporate Debtor was stolen on 04.01.2019 is patently false and misleading as this Tribunal cannot believe that a balance-sheet for the year ending 2019 could have been made out without having access to the tally data of the Corporate Debtor for the entire financial year. Therefore, the submission made by the Respondents through the present affidavit is completely contradictory and not reliable at all.

The conduct of ex-management as brought out above is very much within the purview of Section 34(3) of the Code read with Regulation 9 of the IBBI (Liquidation Process) Regulations 2016.

The said provisions of the Code as well as Regulations make it obligatory on the part of the ex-management to co-operate with the Liquidator. The said provisions are reproduced below:-

**“Section 34: Appointment of liquidator and fee to be paid.**

(1) \_\_\_\_\_ **XXX** \_\_\_\_\_

(2) \_\_\_\_\_ **XXX** \_\_\_\_\_

(3) *The personnel of the corporate debtor shall extend all assistance and cooperation to the liquidator as may be required by him in*





managing the affairs of the corporate debtor and provisions of section 19 shall apply in relation to voluntary liquidation process as they apply in relation to liquidation process with the substitution of references to the liquidator for references to the interim resolution professional.”

**Regulation 9. Personnel to extend cooperation to liquidator:-**

**(1)** “The liquidator may make an application to the Adjudicating Authority for a direction that a person who-

**(a)** is or has been an officer, auditor, employee, promoter or partner of the corporate debtor;

**(b)** was the interim resolution professional, resolution professional or the previous liquidator of the corporate debtor; or

**(c)** has possession of any of the properties of the corporate debtor; shall cooperate with him in the collection of information necessary for the conduct of the liquidation.”

In view of the above, the present conduct of the ex-Management calls for appropriate action in terms of Section 70 of the IBC, 2016 which reads as under:-

**Section 70: Punishment for misconduct in course of corporate insolvency resolution process.**

**“70. (1)** On or after the insolvency commencement date, where an officer of the corporate debtor—

**(a)** does not disclose to the resolution professional all the details of property of the corporate debtor, and details of transactions thereof, or any such other information as the resolution professional may require; or

**(b)** does not deliver to the resolution professional all or part of the property of the corporate debtor in his control or custody and which he is required to deliver; or

**(c)** does not deliver to the resolution professional all books and papers in his control or custody belonging





to the corporate debtor and which he is required to deliver; or

*(d) fails to inform there solution professional the information in his knowledge that a debt has been falsely proved by any person during the corporate insolvency resolution process; or*

*(e) prevents the production of any book or paper affecting or relating to the property or affairs of the corporate debtor; or*

*(f) accounts for any part of the property of the corporate debtor by fictitious losses or expenses, or if he has so attempted at any meeting of the creditors of the corporate debtor within the twelve months immediately preceding the insolvency commencement date, he shall be punishable with imprisonment for a term which shall not be less than three years, but which may extend to five years, or with fine, which shall not be less than one lakh rupees, but may extend to one crore rupees, or with both:*

*Provided that nothing in this section shall render a person liable to any punishment under this section if he proves that he had no intent to do so in relation to the state of affairs of the corporate debtor.*

*(2) If an insolvency professional deliberately contravenes the provisions of this Part the shall be punishable with imprisonment for a term which may extend to six months, or with fine which shall not be less than one lakh rupees, but may extend to five lakhs rupees, or with both."*

Accordingly, we hereby impose fine of Rs.5 lakhs on the Respondents (No.1 & 2) in the present application. The Respondents are directed to make the payment of the said fine within two weeks to the credit of Central Government (Pay Account Officer, Ministry of Corporate Affairs), New Delhi. Counsel for the Respondents (1 & 2) is directed to file a compliance affidavit along with proof of payment as directed above within one week.

Further, it is seen that the Resolution Professional is yet to file its response to the directions given in order dated 11.11.2020. Counsel is directed




to file his response in another two weeks with a copy in advance to the other side for his information. Post this matter after three weeks.

Let the matter be fixed on **12.04.2022**.



**(BACHU VENKAT BALARAM DAS  
MEMBER (JUDICIAL))**



**(NARENDER KUMAR BHOLA)  
MEMBER (TECHNICAL)**

Surjit

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