

IN THE NATIONAL COMPANY LAW TRIBUNAL,

KOLKATA BENCH,

KOLKATA

I.A.(IB) 852/KB/2021

In

C.P (IB) No.1444/KB/2018

In the matter of

An application under Regulation 39(8) of the Corporate Insolvency Resolution Process Regulation read with Rule 11 of the NCLT Rules, 2016.

And

In the matter of:

Syndicate Bank

.... Financial Creditor

Versus

Transafe Services Limited

.... Corporate Debtor

And

In the matter of

OM Logistics Limited, having registered office at 130, Transport Centre, Punjabi Bagh, New Delhi-110035.

.... Applicant

And

1. Mr. Adimoolam Balanatham (Sole Proprietor of Searock Container Terminal)3 & 4 KGL Nagar, Near Bharath Petroleum Bunk, Andal Kuppan, Ponneri High Road, Manali New Town, Tiruvallur, Chennai-600103.

.....Respondent No.1

2. Mr. Anil Agarwal, Resolution Professional 15B, Ballygunge, Circular Road, Kolkata-700019.

...Respondent No.2(Performa Respondent)

Date of hearing : 17/02/2022

Order Pronounced on : 21/03/2022

Coram:

Mr. Rohit Kapoor, Member (Judicial)

Mr. Harish Chander Suri, Member (Technical)

over the containers to the Corporate Debtor upon demand. It was further brought to our notice that the Respondent had submitted its claim as an operational creditor with the RP and its claim was admitted to the tune of Rs.2,59,995/- which was to be paid in full and final settlement of the dues of the Respondent. Despite this, Respondent allegedly raised frivolous money claims for pre CIRP period.

4. The Ld. Counsel for the Applicant further submits that Section VII of the approved Resolution Plan clearly mandates that there shall be no charges over assets of the Corporate Debtor and provides for handing over all assets to the Corporate Debtor. Thus, the Respondent was liable and obligated to hand over the 1267 containers to the Applicant immediately on approval of the Resolution Plan. It is submitted that the Respondent wrongfully and without any justification is refusing to hand over the 1267 containers, and, therefore, the Applicant had issued a formal notice of demand on 26th July, 2021 calling upon the Respondent to immediately hand over the containers as the delay is causing a day today heavy loss to the Applicant. The reply affidavit was also filed by the Respondent.

5. During the course of arguments on 17/02/2022, Ld. Counsel for the parties jointly submitted that the matter has been settled between the parties amicably and in terms of the said settlement, the applicant shall be handing over a sum of Rs.10,00,000/- Plus GST to the Respondent and the Respondent shall unconditionally hand over possession of the 1267 containers to the Applicant. It was further agreed between the parties that the Applicant will bear the expenses for the lifting of the containers.

6. Since the parties have settled the disputes amicably, we direct the Applicant to pay a sum of Rs.10,00,000/-, part of which is stated to have already been given to the Respondent, the remaining payment will be made within one week and in lieu thereof, the Respondent shall hand over 1267

containers to the Applicant immediately. The Applicant shall have all those containers lifted from the godown of the Respondent, at his own cost.

7. After passing of this order neither of the parties shall have any claim on any account against each other.

8. With these directions, I.A.(IB) 852/KB/2021 is disposed of.

9. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

(Harish Chander Suri)
Member (Technical)

(Rohit Kapoor)
Member (Judicial)

Order signed on, this 21st day of March, 2022

Pj