

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
SPECIAL BENCH (COURT – II)

Item No. 215
(IB)-984(ND)2019
IA-2078/2023, IA-5756/2020

IN THE MATTER OF:

M/s. A. C. Goel Paper Distributing Co. (P) ... Applicant/Petitioner Ltd.

Versus

M/s. Webtech Packaging (India) Pvt. Ltd. ... Respondent

Under Section: 9 of IBC, 2016 (R. Plan)

Order delivered on 07.06.2023

CORAM:

**SH. MAHENDRA KHANDELWAL
HON'BLE MEMBER (J)**

**SH. L. N. GUPTA
HON'BLE MEMBER (T)**

PRESENT:

For the Respondent : Adv. Reola Tayyaba, Adv. Rajiv K. Virmani, Adv. Arjun Agarwal for erstwhile directors

For the RP : Adv. Vinod Khanna, Ms. Ashu Gupta, RP

ORDER

IA-2078/2023: This application has been filed by RP seeking direction to FC to pay the CIRP cost. The Ld. Counsel appearing for the RP submitted that vide order dated 13.12.2022 in IA-1571/2021, the matter was referred to IBBI for needful examination and resolution of the issue. Ld. Counsel for the RP submitted that IBBI has directly filed the report of this Adjudicating Authority vide dairy No. 0710102077352019. However, the report is not uploaded on the DMS/e-portal of this Tribunal. Hence, IBBI is directed to upload the report on the DMS and supply a copy to the RP as well as the FC i.e., M/s Siemens Financial Services Pvt. Ltd.

Issue notice upon the Respondent returnable on 24.07.2023 by all modes. Affidavit of service be filed within one week. The reply may be filed by the Respondent within two weeks from the date of receipt of the notice.

List on 24.07.2023.

IA-5756/2020: Ld. Counsel appearing for the RP drew our attention to the order dated 03.03.2023 which reads thus:

***“IA-5756/2020:** There is no change in the circumstances prevalent on 13.12.2022 and 18.01.2023, in the wake, the hearing in IA stands deferred on 20.04.2023.*

 

Nevertheless, Ld. Counsel for the RP submitted that whereas the maximum extendable period for CIRP is up to 330 days in the present case, a period of more than 500 days is already lapsed, thus, the resolution plan sought to be approved in terms of the captioned i.e. IA-5765/2022 has become otiose. In the wake, and also the fact that the Resolution Applicant has been found ineligible under Section 29A(g) of IBC, 2016, it would be open to RP to move appropriate application in accordance with law.”

Ld. Counsel appearing for the RP further submitted that in the meantime, the period of 1415 days has passed since the commencement of CIRP in the present case. Ld. Counsel for the RP, who is present along with the RP in person, further submits that pursuant to the order dated 03.03.2023, the matter was placed before the CoC couple of times but no decision has been taken. He further submits that this position has been informed vide para 25 of IA-2649/2023 placing therewith status report. The para 25 of the said IA reads thus:

25. “In compliance of Hon’ble NCLT order dated 03.03.2023, to move appropriate application in accordance with law, 12th CoC meeting was called on 27.03.2023, 04.04.2023, 11.04.2023 and finally held on 12.04.2023, in which one representative of sole FC participated and said that since the matter is referred to their legal team, they need more time to take the decision on withdrawal of IA-5756/2020 so RP should cooperate and represent their view point before NCLT. Accordingly, RP is unable to move appropriate application in the matter as directed vide order dated 03.03.2023.”

The RP present in person further submits that the FC is not cooperating in the matter and also not reimbursing the cost of the CIRP to the RP for which they are finding it difficult to maintain the office and perform duties.

Issue notice to Mr. Shailesh Aggarwal (Authorised Representative of M/s Siemens Financial Services Private Limited) Plot No. 78, Sector-18, Gurgaon-122015 to remain present in person on the next date of hearing. He will seek requisite instructions from their Chairman/MD and apprise the same to this Adjudicating Authority. List on 24.07.2023.

-Sd-

**(L. N. GUPTA)
MEMBER (T)**

-Sd-

**(MAHENDRA KHANDELWAL)
MEMBER (J)**