



IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI, COURT-III

IA-4943/2022

In

(IB) – 3398(ND)/2019

Order under Section 66(1) of the Insolvency and Bankruptcy Code, 2016 read with regulation 35A of the Insolvency and Bankruptcy Board of India Regulations, 2016.

IN THE MATTER OF:

M/S SHRIJI DIAMONDS

....Operational Creditor

VERSUS

M/S BADRI SARAF JEWELS PVT LTD.

.... Corporate Debtor

AND IN THE MATTER OF:

RAJESH KUMAR GOEL

.... Applicant/Resolution Professional

VERSUS

MANU KESARWANI & ANR.

.... Respondent/Suspended Directors

Order Pronounced On: 08.11.2023

CORAM:

SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)

SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)

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APPEARANCES:

For RP : Ms. Muskaan Garg, Mr. Himanshu Goyal Advs.



ORDER

PER: BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)

This is an Application filed before this Adjudicating Authority Order under Section 66(1) of the Insolvency and Bankruptcy Code, 2016 read with regulation 35A of the Insolvency and Bankruptcy Board of India Regulations, 2016, for seeking the following reliefs:

- a) *Allow the present Application*
- b) *Issue necessary directions to the Respondents under Section 66(1) of the Code to extend assistance and corporation to the Applicant and provide all the necessary documents related to the Corporate Debtor.*
- c) *Pass such other order/directions as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case."*

The Adjudicating Authority (Bench-III) vide order dated 20.05.2022 was pleased to admit the Company Petition (IB)-3398(ND)/2019 filed by the M/s Shriji Diamonds ("Operational Creditor"), for initiating the CIRP under Section 9 of the Code against M/s. Badri Sarraf Jewels Pvt Ltd. ("Corporate Debtor").

Analysis and Findings:

- i.** We have heard the Ld. Counsel appearing for the Applicant and also perused the documents on record.
- ii.** Though this Application has been filed purportedly under Section 66(1) of Insolvency and Bankruptcy Code, 2016. The prayers in this Application show that the Application will fall under Section 19(2) and 19(3) of Insolvency and Bankruptcy Code, 2016.

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iii. Further, from the perusal of record, we find that IA-2883/2022 has already been filed under Section 19(2) and 19(3) by Interim Resolution Professional with the following prayer:

- (a) Allow the present Application;*
- (b) Issue necessary directions to the Respondents under Section 19(3) of the Code to extend assistance and cooperation to the Applicant and provide all the necessary documents related to the CD;*
- (c) Direct the Respondents to provide specific and correct details of Auditor and Accountant/ Chartered Accountant of the Corporate Debtor; and/ or*
- (d) Pass such other order/ directions as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.*

iv. It is clear from the above that the prayer (b) in IA 4943/2022 and prayer (b) in IA 2883/2022 are the same. Therefore, we do not wish to entertain this Application as IA 2883/2022 is already pending before this Tribunal.

Order

i. In light of the above facts and circumstances, the Application bearing **IA-4943/2022** filed under Section Order under Section 66(1) of the Insolvency and Bankruptcy Code, 2016 read with regulation 35A of the Insolvency and Bankruptcy Board of India Regulations, 2016 stands **dismissed.**

No order as to costs.

Sd/-

**ATUL CHATURVEDI
MEMBER (TECHNICAL)**

Sd/-

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