

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

**CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER**

**SHRI RAJEEV MEHROTRA,
HON'BLE TECHNICAL MEMBER**

IA No. 75/JPR/2022
In CP No. (IB)- 158/9/JPR/2020

In the matter of:

**M/S BALAJI LIFESTYLE
TECHNOLOGIES PVT. LTD.**

...OPERATIONAL CREDITOR

VERSUS

**M/S EXCEL TECHNOVATION
PVT. LTD.**

...CORPORATE DEBTOR

And in the matter of IA No. 75/JPR/2022:

**M/S EXCEL TECHNOVATION
PVT. LTD.**

*Through its Resolution Professional
Shri Prashant Agrawal
Having its office at F-106, Sumer
Complex, Gautam Marg, B/h Bagadia
Bhawan, Jaipur*

...Applicant

VERSUS

MR. RAJESH SINGH

*(Suspended Director of Excel
Technovation Pvt. Ltd.)*

*R/o 802, Unique Sanghi
Apartment, Mahavir Nagar, Near
Durgapura Railway Station, A C
Jobner, Jaipur- 302018, Raj.*

...Respondent No. 1

Sdr

Sdr

MS. ANJU SINGH

(Suspended Director of Excel Technovation Pvt. Ltd.)

R/o 802, Unique Sanghi Apartment, Mahavir Nagar, Near Durgapura Railway Station, A C Jobner, Jaipur- 302018, Raj.

...Respondent No. 2

MR. DEV SHARMA

(Suspended Director of Excel Technovation Pvt. Ltd.)

R/o Ground Floor, Block No. 12, DDA Flats, Tilak Nagar, West Delhi, Delhi-110018.

...Respondent No. 3

FOR APPLICANT(S) : Prashant Agrawal, Liquidator
Jatin Chawla, Adv.
FOR RESPONDENT(S) : Rohan Agarwal, Adv.

Order Pronounced On: 03.05.2024

ORDER

Per: Shri Deep Chandra Joshi, Judicial Member

1. The present Application bearing *IA No. 75/JPR/2022* has been filed by *Mr. Prashant Agrawal ('Applicant'/ 'Resolution Professional'/ 'Liquidator')*, then Resolution Professional of *M/s Excel Technovation Pvt. Ltd.* ('Corporate Debtor') under Section 19(2) of the Insolvency and Bankruptcy Code, 2016 ('IBC'/ 'Code') seeking the following reliefs:

- *Direct the Non-Applicants to furnish all the documents/ information related to Corporate Debtor to Resolution Professional.*

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- *Direct the Non-Applicants to furnish the information/ clarification as sought by Resolution Professional more particularly stated hereinabove under Para 9 of the Application.*
- *Direct the Non-Applicants to co-operate with Resolution Professional for carrying out statutory duties casted upon Applicant and furnish relevant documents/ information/ clarification to be sought by Resolution Professional as time to time.*
- *Pass any other order which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case may be granted.*

2. This Adjudicating Authority, by order dated 30.09.2021, admitted the Application filed by *M/s Balaji Lifestyle Technologies Pvt. Ltd.* ('Operational Creditor') under Section 9 of the Code for the initiation of Corporate Insolvency Resolution Process ('CIRP') of the Corporate Debtor. As a consequence, *Mr. Prashant Agrawal* was appointed as Interim Resolution Professional ('IRP'). Later on, the appointment of the IRP as the Resolution Professional ('RP') was approved by the CoC. Subsequently, an order for Liquidation was passed by this Adjudicating Authority on 31.10.2023, and the RP was appointed as the Liquidator.

3. The present application has been filed on the following set of facts:

3.1. It is submitted that the Applicant, in pursuance of initiation of CIRP of the Corporate Debtor, sent an email dated 02.10.2021 seeking cooperation from the Suspended Board of Directors. The Applicant requested the furnishing of documents/information from the Corporate Debtor, however, no response was furnished. The Applicant sent reminder emails on various dates, namely 12.10.2021, 13.10.2021, 14.10.2021, 15.10.2021, 18.10.2021, and 19.10.2021, seeking the

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requisite information from the Non-Applicants. It is further submitted that Non-Applicant No. 1 reverted to the email on 20.10.2021 with a few documents and information.

3.2. In furtherance of the process, the Applicant sought additional information/documents from the Non-Applicants *vide* an email dated 28.10.2021. Upon non-receipt of response, the Applicant sent reminder emails dated 03.11.2021, 10.11.2021, 11.11.2021, 20.11.2021, and 24.11.2021. The Non-Applicants responded *vide* email dated 24.11.2021, seeking more time to respond. Subsequently, in response to the emails, one *Mr. Purusottm Sharma*, a suspended personnel of the Corporate Debtor, sent a reply *vide* email dated 27.11.2021, however, he did not provide complete documents/information as requested by the Applicant.

3.3. The Applicant, after analyzing the response from *Mr. Purusottm Sharma*, sent another email dated 03.12.2021 to the Non-Applicants, seeking complete information as requested initially on 28.10.2021. Non-Applicant No. 1 reverted through an email dated 03.12.2021, reiterating the above reply of *Mr. Purusottm Sharma* received on 27.11.2021. Thereafter, the Applicant sent a rejoinder email dated 03.12.2021, highlighting the requirement, and the response on the same was provided by Non-Applicant No. 1. When no appropriate response was received from the Non-Applicants, the Applicant sent a reminder

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email dated 15.12.2021, which remained unreverted until the present date. Lastly, on 18.01.2022, the Applicant sent a final reminder email seeking the unfurnished information and mentioned that if the same were not furnished, then a petition would be filed against the Non-Applicants under Section 19(2) of the Code. The information sought are:

- a. *Books of accounts of the Corporate Debtor, which includes vouchers, registers, bills generated/ issued, invoices received from sundry creditors, details of deposits etc.*
- b. *Complete list of names and addresses of Sundry Debtors and Sundry Creditors of the Corporate Debtors along with the contract agreements and invoices/ bills raised or received.*
- c. *Please provide a complete list of fixed assets showing as per tally records, including purchase invoices, dates of purchase, make and value of purchases etc.*
- d. *As per the tally records, the opening balance of Rs. 2,66,896/- (Rupees Two Lakhs Sixty-Six Thousand Eight Hundred and Ninety-Six Rupees) is shown in the trail balance. Kindly provide details of the same.*
- e. *Total deposits are lying in the books of account at Rs. 45,04,030.50/- (Rupees Forty-Five Lakhs Four Thousand and Thirty Only). You are requested immediately to provide details of deposits and supporting evidence for the same so the amount can be recovered.*

3.4. Since the above email remained unanswered, the Applicant filed the present Application before this Adjudicating Authority under Section 19(2) of the Code against the non-cooperation by the Non-Applicants in the CIRP proceedings.

4. The Respondent No. 1 and 2 filed their Reply, *vide* Diary No. 3750/2022 dated 15.12.2022, stating as below:

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- 4.1. The Respondents No. 1 & 2 have categorically denied the allegations of the Applicant and stated that they extended full cooperation to the Applicant whenever sought. Further, it is submitted that the Applicant sent an email to the email address rajesh@exceltechnovation.com, however, this email address was shut down due to non-payment of the due amount for the use of the said domain. Therefore, the answering respondents did not have any knowledge of the email dated 02.10.2021. The answering Respondents received an email on 19.10.2021 at the email address rsc.excel@gmail.com, which was duly responded to by them, however, they had no knowledge of the emails sent by the Applicant to the other email addresses.
- 4.2. It is further submitted that the information regarding the login ID and password of the Company's website was duly provided by the answering Respondents to the Applicant in response to the email dated 28.10.2021. Furthermore, all the information within the knowledge of the answering Respondents has been duly furnished, and therefore, the contention of the Applicant that incomplete information was provided is not correct.
- 4.3. Moreover, it is submitted that the Applicant has already taken possession of the office of the Corporate Debtor under his custody and put his own locks on the said property, due to which the answering Respondents are unable to access the data and records. The Applicant



can himself access the full records of the Corporate Debtor. Additionally, the answering Respondent has acted with *bona fide* intentions at all times, and therefore the interference from this Adjudicating Authority is not required. It is submitted that the answering Respondents are further ready and willing to assist the Applicant in the due process. The answering Respondents duly responded to the information sought by the Applicant on 10.08.2022 *vide* an email dated 16.08.2022.

5. The Applicant *vide* Dairy No. 816/2023 dated 28.03.2023 has submitted the Rejoinder stating as below:

5.1. It is submitted that the Applicant sent the emails to the email addresses available in the Company's data. The email was duly sent to the personal *Rediff* email ID of Respondent No. 2 (anjusingh_jpr@rediffmail.com), who is the wife of Respondent No. 1. However, no information was provided in a timely manner.

5.2. It is further submitted that when the Applicant sent an email dated 19.10.2021, intimating the Non-Applicants for initiating proceedings u/s 19(2) of the Code against the Non-Applicants, Respondent No. 1 reverted *vide* email dated 19.10.2021. However, the response was incomplete. Furthermore, after the Applicant issued several emails, the response was sent by the Respondents *vide* email dated 27.11.2021 through *Mr. Purusottam Sharma*. Moreover, the reply to the email,

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annexed with the reply, was issued post filing of this Application.

Therefore, it can be seen that the Non-Applicant did not cooperate in the due process of law and provided vague information.

6. It is pertinent to mention herein that no representation has been received on behalf of Respondent No. 3. Thus, this Adjudicating Authority, *vide* order dated 05.02.2024, initiated *ex-parte* proceedings against Respondent No. 3.
7. We have heard the Ld. Counsels for the parties and perused the averments made in the Application, Reply and Rejoinder along with the documents enclosed therein.
8. It is noted that the present Application was filed on 08.02.2022, and subsequently, the Liquidation of the Corporate Debtor was initiated *vide* order dated 31.10.2023. In the said order this Adjudicating Authority has directed as follows:

“(21.5) 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 of the Code shall apply concerning the liquidation process as they apply with CIR process with the substitution of references to the Resolution Professional for the Liquidator.”

9. The provisions of Section 19 of the Code impose an obligation on the personnel and promoters of the Corporate Debtor to provide all assistance and cooperation required by the Resolution Professional in the management of the affairs of the Corporate Debtor. Section 19(2) of the Code empowers the Resolution Professional to file an appropriate

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application before this Adjudicating Authority to seek necessary directions. Similarly, Section 35 of the Code delineates the powers and duties of the Liquidator and specifically empowers the Liquidator to take into his custody or control all the assets, property, effects, and actionable claims of the Corporate Debtor.

10. The Adjudicating Authority on receiving an application under Section 19(2), shall by an order, direct such personnel or other persons to comply with the instructions of the Liquidator and to cooperate with him in the collection of information and management of the Corporate Debtor.
11. Considering arguments advanced, submissions put forth and documents placed on the record, Application of the RP is allowed and Respondents are directed to extend their full cooperation and support to Liquidator in handing over the possession of the assets along with providing all the documents and records enumerated in the Application, particularly the information mentioned in *Para 3.3* hereinabove, within fifteen days from the date of this order.
12. The Liquidator shall be at liberty to move an appropriate application, in case of any breach of the direction given by this Adjudicating Authority. Furthermore, the non-compliance with the aforesaid direction would attract strict penalties and suspended management shall remain present in person either physically or through virtual mode to explain their non-compliances with the aforesaid directions.

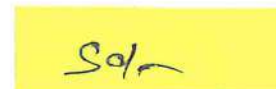
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13. Any non-conformity, shall result in the issuance of aailable warrant to secure the presence of Respondents. The Liquidator is directed to inform the Suspended Management. The Registry is directed to serve a copy of this Order to the Suspended Management. Accordingly, IA No. 75/JPR/2022 stands disposed of.



DEEP CHANDRA JOSHI
JUDICIAL MEMBER



RAJEEV MEHROTRA
TECHNICAL MEMBER