

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH-I
KOLKATA**

**IA(I.B) No. 82/KB/2021
In
CP (IB) No. 23/KB/2019**

In the matter of:

**An application under Section 19(2) of the Insolvency & Bankruptcy Code,
2016**

And

In the matter of:

Pankaj Dhanuka, Resolution Professional of Corporate Debtor

....Applicant

Versus

- 1. Manoj Kumar Jayaswal – Former Director of the Corporate Debtor**
- 2. Satish Shrikhandek – Senior General Manager, Abhijeet Projects**
- 3. Vipin Khodke – Corporate Finance, Abhijeet Projects**

...Respondents

Assest Reconstruction Company (India) Ltd.

.....Applicant/ Financial Creditor

Versus

Corporate Power Ltd.

....Respondents/ Corporate Debtor

Date of Hearing: 16.02.2022

Date of pronouncement: 29.04.2022

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Shri Rajasekhar V.K. : Member (Judicial)

Shri Balraj Joshi : Member (Technical)

Appearance

1. Mr. Abhishek Swaroop, Advocate } For the Liquidator

1. Mr. Mainak Bose, Advocate
2. Mr. Souritra Ganguly, Advocate
3. Mr. Koushik Bhatta, Advocate
4. Mr. Moti Sagar Tiwari, Advocate

} For Respondents

ORDER

Rajasekhar V.K. Member (Judicial)

1. This Adjudicating Authority *vide* order dated 19 February, 2020 and admitted the Corporate Debtor into Corporate Insolvency Resolution Professional (“CIRP”) on a petition filed by Asset Reconstruction Company India Ltd registered as CP (IB) 23/KB/2019. The Applicant was appointed as the Interim Resolution Professional.
2. That the Applicant took control of the Corporate Debtor and *vide* email dated 09 April, 2020 intimated the Respondents about initiation of CIRP and requested the Respondents to provide necessary assistance to the Applicant. The Applicant *vide* email dated 16 April, 2020 sought for detailed list of information and data as the respondents reply *vide* email dated 18 April, 2020 stated that owing to the first lockdown of Covid-19 they were unable to provide the requisite information. Thereafter the applicant sent another email dated 29 April, 2020 requesting the Respondents to provide a detailed list of information and data pertaining to the Corporate Debtor. But the Respondents they were similar response that owing to the lockdown they were unable to provide the necessary information *vide* email dated 08 May, 2020. Thereafter the Respondents provide partial information *vide* email dated 11 May, 2020.
3. That the Applicant *vide* email dated 15 May, 2020, 19 May, 2020, 26 May, 2020 and 02 June, 2020 sent continuous reminders to the Respondents requesting them to provide the Applicant with all the necessary information. The Respondent *vide* email dated 08 June, 2020 gave the same reply that they were unable to provide the necessary information due to the lockdown.

4. The Applicant submitted that a major fire broke out at the plant of the Corporate Debtor on 25 May, 2020, the Applicant had filed for insurance claim for which essential documents were required but the same were in the custody of the Respondents. The Applicant requested the Respondents *vide* email dated 21 June, 2020 to provide the Applicant with the necessary documents. The Respondents *vide* email dated 25 June, 2020 gave the same reply and took the excuse all the lockdown.
5. That the Applicant *vide* emails dated 05 August, 2020 and 06 August, 2020, requested for information pertaining to the bank accounts of the Corporate Debtor. The reminder emails were sent on 14 August, 2020 and 17 August, 2020 but to no avail. *Vide* email dated 17 August, 2020 the Applicant once again sought for particulars from the documents of the Corporate Debtor. That the applicant sent several emails seeking for necessary information on 25 August, 2020, 03, September 2020, 04 September 2020, 07 September, 2020 and 10 September, 2020, 21 September, 2020, 30 September, 2020, 30 October, 2020 and 18 November, 2020, 01 December, 2020, 07 December, 2020, 10 December, 2020, 28 December 2020 and 29 December, 2020 but the Respondents did not reply to the Applicant.
6. Court's notice was issued upon the Respondents on 05 May, 2021 the Respondents entered appearance on 23 March, 2021 and 21 October, 2021, both the parties were directed to sit across table and arrive at solution about the documents which are required to be furnished by the erstwhile management to enable the liquidator to proceed with the matter.
7. On 7 January, 2022 it was submitted that, following the last hearing date i.e. 9 November 2021 some documents had been given to the Applicant on 6 January, 2022 but the Applicant did not get time to go thorough it. The learned counsel appearing for the Respondents submitted that one of the document sought for was the tally back up/accounting backup, the software backup had crashed a year ago. At that very instant, we had made it clear that software systems holding the accounting backup crashed many years

ago and any prudent management would have installed afresh some systems in place. Hence, the Adjudicating Authority directed erstwhile management to handover the soft copy of the accounting backup within fifteen days under any circumstance. Till the date of hearing the Suspended Board of Management did not provide the Applicant with all the documents required.

8. The Respondent No. 1 filed his affidavit in reply through a Constituted Attorney wherein he stated that the Respondent No. 1 has always been willing to cooperate with the Applicant and that the Respondent has supplied documents that were available with him to the Applicant.
9. On the perusal of the record it is clear that the Respondents have provided the liquidator with some documents but the same does not hold much importance, since it does not contain the full information required. Hence, the Respondents are directed to provide all the documents that is required by the liquidator. The liquidator shall handover a list containing the documents required by the liquidator with a day to the Respondents and the Respondents are directed to complete the entire process within two weeks positively, failing which a reference to the IBBI will follow for prosecuting the Suspended Board of Management before the Special Court in terms of Section 236 (1) of the Code.
10. In these circumstances IA(IB) 82/KB/2021 is hereby disposed of.
11. The Registry is directed to send e-mail copies of the order forthwith to all the parties inclusive of the Counsel.
12. Urgent certified copy of this order, if applied for be issued upon compliance with all requisite formalities.

BALRAJ JOSHI
Digitally signed by BALRAJ JOSHI
Date: 2022.04.29 20:21:31
Balraj Joshi
Member (Technical)

Rajasekhar V K
Digitally signed by Rajasekhar V K
Date: 2022.04.29 17:44:14 +05'30'
Rajasekhar V.K.
Member (Judicial)

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