THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH
(Exercising powers of Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016)

CA No.562/18
in
CP (IB) No.155/Chd/Hry/2018
(Admitted)

Under Sections 60(5) of the IBC 2016

<u>In the matter of:-</u>

M/s Hind Tradex Limited …Petitioner-Operational Creditor

Versus

M/s Lakshmi Precision Screws Limited …Respondent-Corporate Debtor

<u>And in the matter of:-</u>

<u>IA No.562/18</u>

Mr. Deepak Thukral, Resolution Professional
H. No. 237/1, Sector-44-A, Chandigarh-160047 …Applicant

Vs.

Lakshmi Precision Screws Limited
having its registered office at
46/1, Mile Stone, Hisar Road,j
Rohtak, Haryana-124001 ….Respondent No. 1

Dinesh Kumar Jain (Director)
764/23 Bharat Colony, Model Town
Rohtak-124001 HR …Respondent No. 2

Lalit Kumar Jain (Director)
46/1, Milestone, Hisar Road,
Rohtak, Haryana-124001

And At
J-13 S/F Road, Infront of J-10 to J-20
Saket Opp Transfarmer

New Delhi-110017 DL …Respondent No. 3

Mr. S M Sangwan
Accounts Head
having its registered office at
1377, Sector-1 (HUDA)
Rohtak (Haryana)-124001

Also at
V& P. O. Kheribura
Tech. Charkhi Dadri
Distt. Bhiwani …Respondent No. 4

Order delivered on: 01.09.2023

Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)

Present through video-conferencing:

For the Applicant	:	Ms. Swati Saluja, Advocate
For respondent No. 2	:	Mr. Arun Saxena, Advocate
For the Respondent	:	Mr. Animesh Sharma, Advocate for respondent No.3

Per: Subrata Kumar Dash, Member (Technical)

ORDER

CA No.562/2018

This is an application filed under Section 19(2) & 19(3) of the Insolvency and Bankruptcy Code, 2016 read with Section 60(5) and Section 70 of the Insolvency and Bankruptcy Code, 2016 for issuance of directions to the personnel of the corporate debtor and other associated with the management of the corporate debtor to provide assistance, co-operation and information required by the applicant in discharging his statutory duties as per the Code. The applicant has stated the following facts in the application are as under:-

2. The corporate debtor admitted the CIRP on 18.07.2018 after this adjudicating authority admitted the petition under Section 9 of the Insolvency and Bankruptcy Code, 2016. Subsequently, the IRP interacted with Mr. D.K. Jain, (Managing Director/Respondent No. 2) and informed him that the Power of Board of Directors have been suspended in pursuance of Section 17(1)(b) of the IBC, 2016 and the same would be vested in the Interim Resolution Professional in pursuance to Section 17(1)(b). A formal letter to the Board of Directors for asking them to cooperate and provide information in pursuance to Section 19(1) was sent by the applicant on 26.07.2018.

3. Subsequently, the applicant discharged his duties by making public announcement in Form-A, holding the CoC meeting, appointing valuers. It is stated that Respondent No. 2 refused to sign the declaration. It is further identified that huge differences in stocks of the corporate debtor as per the financial results submitted by the corporate debtor to the SEBI and as per the actual stocks found as on the date of takeover of assets were noticed. The Committee of Creditors was duly notified about the non-cooperation of Respondent No. 2 and 3 and Resolution Professional was directed to move these applications under Section 19(2) of the Code.

4. Respondent No. 1 has been deleted from the array of parties by our order dated 06.12.2018 **.** In their reply, the legal heirs of Respondent No. 2 have stated that Respondent No. 2 (deceased) had already filed his reply to the allegations made by the Resolution Professional.A copy of the aforementioned reply of Late Mr. DK Jain-respondent No. 2 is annexed to the reply of the legal heirs.We have perused the above referred reply earlier furnished by the Respondent No.2,where in he had stated that Respondent No.2 had already provided the information on demand of Resolution Professional and there was no such noncooperation on the part of the

Respondent No. 2. In the reply filed by respondent No. 2-Sh. D.K. Jain, it is stated , inter alia, that the information requisitioned by the Resolution Professional are available in the records of the corporate debtor which are maintained by the executives and these executives are not cooperating with the suspended management. It was further stated that the data relating to Delhi and Mumbai had been collected and had also provided the contact No. of Delhi, Mumbai and Ahemdabad offices to the applicant. It is further stated that the respondent has supplied to the applicant all the Books of Accounts, statement disclosures maintained undre the supervision and control of respondent No. 4. It is stated that the respondent No. 2 did not have access to the accounts of the corporate debtor beyond whatever had been submitted. It is also stated that respondent No. 4 is a correct person to discuss the query regarding the inventories.

4.1 The legal heirs of Respondent No. 2 have stated that the Resolution Professional's impleadment of legal heirs of Respondent No. 2 as respondents to the present application is not maintainable under law.. It is further pleaded that the legal heirs of Respondent No. 2 should be struck off from the array of the parties from the present application.

4.2 Respondent No. 3 in his reply has stated that the applicant-RP had issued a notice on 10.01.2020 seeking certain information and the same information is being sought again in the written submissions filed. It is stated that this adjudicating authority in its order dated 14.10.2019, had directed Respondent Nos. 2 to 4 to provide all the information. It is further stated that the books of accounts including computer system records relating to the Ahmedabad office and another office, which have been requisitioned by the Resolution Professional, are not maintained by Respondent No. 3, and computer systems of the Ahmedabad office also are not in the personal possession of the Respondent.

4.3 It is also stated that Respondent No. 3 is not aware of any trademark infringement and does not have the details of Rs. 214.95 crore in stock valuation, i.e., difference of stock as shown in the financial report of the corporate debtor and as per stock-taking by the Resolution Professional. It is also stated that the allegations that the respondent has fraudulently siphoned of inventory are false. Regarding the records pertaining to Income Tax Returns, it is stated that the same are maintained by the Accounts Department of the corporate debtor and the Respondent No. 3 only counter-signed the Balance Sheet after the same was signed by the CFO and by Respondent No. 2, i.e. Mr. D.K. Jain.(Deceased) It is averred that Respondent No. 3 is prepared to sign whatever documents may be required to change the authorized signatory on the GST Portal.

5. In his Rejoinder to response to the reply filed by Legal heirs of Late Mr. D.K. Jain- Respondent No. 2 (deceased), the applicant has stated that Mr. Nikhlesh Jain, one of the legal heirs of Respondent No. 2 has been associated with the corporate debtor company in the past many years and therefore his statement bears malafide intent.

6. Rejoinder to the reply on behalf of Respondent No. 3 has stated that respondents have failed to comply with the directions to adjudicating authority in its order dated 10.10.2022. It has also been stated that the promoters of the corporate debtor made an attempt to remove the machinery from Plant No. II and the workers of the corporate debtor approached the police station, resulting in the promoters moving away from the plant premises. It is further

stated that the images and videography of the same have been reported to this Hon'ble Adjudicating Authority through various progress reports. The Resolution Professional reiterated that the Respondents have failed to substantiate that inventory has not been siphoned off by him and that they have signed wrong financial statements, including balance sheet.

7. The applicant has repeated the following list of specific information still pending which had already been requested in the email.

a. Books of accounts including computers systems record relating to Ahmedabad office and other offices where Corporate Debtor has GST No.

b. Trademark infringement, if any of the Corporate Debtor.

c. Details of differences of Rs. 214.95 crores in stock valuation, difference of the stock as shown in the limited review report and as per the actual found at the time of taking charge by the Resolution Professional.

d. Records pertaining to Income Tax Returns.

e. Sign Balance Sheet for the financial year 31.03.2018 and provisional balance sheet till 24.07.2018 (CIRP commencement date)

f. Digital signing of GST Returns on the GST portal or change authorized signatory on the GST Portal so that RP can sign GST Return pertaining to his period.

8. We have heard the learned counsel for the parties and have perused the records carefully.

9. The replies of the respondents have been perused. In the course of the present proceedings, by our order dated 10.10.2022, we had directed the respondents to "inform the Bench as to the locations of the computer system at

Ahmedabad office as on date and whether they are in operational conditions at least a week before the next date of hearing". No plausible response to this straight forward direction has been made by the respondent. The images and videography were filed through various progress reports regarding the attempts by the promoters to remove machinery from the factory to undermine the exisetence of the corporate debtor. While going through the list of specific information submitted by the applicant, it is noted that the major requirement is that of financial statements, computer accounting data and copies of different statutory compliances like filing of Income Tax returns etc made by the corporate debtor. In this connection, the applicant is directed to collect this information to the extent available from other sources,like the lending banks, who usually have details of the stocks of the corporate debtor.He can also approach the Statutory Authorities with a request to obtain the copies of the Returns etc filed with them. As the matter is very old, the likelihood of obtaining complete information looks remote. He is directed to make all efforts to collect relevant informationf from the above sources and within a period of two months.

10. In the meanwhile, the respondents are also directed to assist the Resolution Professional in these efforts. A meeting in this regard is directed to be held within two weeks of this order where in thE parties to this application are directed to be present. In the case of non-appearance of the respondents in this meeting, the Resolution Professional can take help of the local Police Authorities to ensure attendance.The Respondents are directed to extend all possible assistance to the Resolution professional to obtain the information required. If the Resolution Professional still does not obtain the information requisitioned to the extent those are available with the Respondents, he is at liberty to approach this Adjudicating Authority.

11. In the result, CA No. 562/2018 is allowed and disposed of accordingly.

Sd/-	Sd/-
(Subrata Kumar Dash) **Member (Technical)**	**(Harnam Singh Thakur)** **Member (Judicial)**

September 01, 2023
PKA