

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court -II)
KOLKATA**

**IA(IBC)/1423(KB)2022
in
CP(IB)/1908(KB)2019**

Under sections 14(1)(b) and 74(1) of the Insolvency & Bankruptcy Code, 2016

In the matter of:

Reliance Home Finance Limited

.... Financial Creditor

Versus

Raghav Sarees Pvt. Ltd.

(U93000WB2009PTC132421)

.... Corporate Debtor

And

In the matter of:

Mr. Niraj Kumar Agrawal,

Resolution Professional of Raghav Sarees Pvt. Ltd.

... Applicant

Versus

Narendra Kumar Agarwal & 3 Others

.... Respondents

Order reserved on: 08/05/2023

Order pronounced on: 02/08/2023

Coram:

Smt. Bidisha Banerjee

: Member (Judicial)

Shri Balraj Joshi

: Member (Technical)

Appearances (through hybrid mode):

For RP

: Mr. Shaunak Mitra, Adv.
Mr. Sourav Jain, Adv.

ORDER

Per: Balraj Joshi, Member (Technical)

1. This Adjudicating Authority convened through hybrid mode.
2. This application has been filed u/s. 14(1)(b) and 74(1) of the Insolvency and Bankruptcy Code, 2016, (in short “**IBC**”) by the Resolution Professional (in short “**RP**”) of **Raghav Sarees Pvt. Ltd.**, Corporate Debtor, praying for passing an order directing the respondents nos. 1, 2, 3 and 4 to refund the amount of Rs.76,693/- along with interest or take cognizance to punish the officers/men/agent/directors/representative u/s.74 of the IBC. This application is supported by an affidavit¹ duly affirmed by the RP.
3. This Adjudicating Authority, on a petition filed u/s. 7 of the IBC read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by Reliance Home Finance Limited, Financial Creditor, *vide* order² dated **13/06/2022** in CP(IB)/1908(KB)2019, had ordered initiation of CIRP against Raghav Sarees Pvt. Ltd. appointing Mr. Niraj Kumar Agrawal as the Interim Resolution Professional (in short “**IRP**”).
4. In terms of section 15 of the IBC Public Announcement³ was made in Form A on 15/06/2022 in “*Business Standard*” (English) and “*Aajkaal*” (Bengali) inviting claims from creditors of the Corporate Debtor and also informed IBBI about the public announcement and requesting them to upload the same in their website.
5. The IRP had duly intimated⁴ suspended members of the Board of Directors of the Corporate Debtor about initiation of CIRP against the Corporate Debtor attaching a copy of the order dated 13/06/2022 along with public announcement in Form A dated 15/06/2022 through e-mail dated 15/06/2022.

¹ At pages 25 to 27 of the application

² Annexure A at pages 28 to 38 of the application

³ Annexure B at pages 39 and 40 of the application

⁴ Annexure C at page 41 and averments in paragraph 4(d) at page 17 of the application

6. It is stated in the application that the applicant wrote letters to several banks – both public and private sectors based on PAN number of the Corporate Debtor seeking necessary information with regard to bank account, if any, maintained by the Corporate Debtor with them. In response, HDFC Bank, Dr. U. N. Brahmachari Street Branch, Kolkata had confirmed having a bank account, being A/c. no.50200040223193 in the name of the Corporate Debtor. Upon receipt of summary bank statement⁵ for the period from 13/06/2022 to 20/06/2022 had revealed violation of Moratorium declared *vide* order dated 13/06/2022 u/s. 14 of the IBC.
7. The applicant immediately wrote through e-mail⁶ dated 02/09/2022 to the respondent no.1 intimating about violation of Moratorium. In response, respondent no. 1 had duly replied *vide* e-mail⁷ dated 14/09/2022 stating that the cheque was handed over before commencement of CIRP, i.e., 13/06/2022.
8. Thereafter, the applicant obtained copy of cheques cleared and the deposit slip for the same which reveals that the cheque for Rs.66,000/- was dated 16/06/2022 and deposited on 16/06/2022. Copy of cheque and deposit slip has been annexed as **Annexure H⁸**.
9. We have heard the Ld. Counsel for the RP, perused the application and the documents attached therewith.
10. On perusal of the application it appears that the respondents have blatantly violated the order dated 13/06/2022 by issuing cheques post admission of the Corporate Debtor under CIRP passed in CP(IB)/1908(KB)2019. On a perusal of the order dated 13/06/2022, it is evident that the Corporate Debtor was represented by one Ms. Soma Ray, Advocate. Also, *vide* orders dated 22/12/2022 and 06/02/2023 of this Adjudicating Authority directions to file reply affidavit have been given in presence of the Ld. Counsel appearing for R-1 and R-2.

⁵ Annexure E at page 42A of the application

⁶ Annexure F at pages 43 to 46 of the application

⁷ Annexure G at page 47 of the application

⁸ Annexure H at pages 48 to 50 of the application

However, respondents have not availed that opportunity to file any reply affidavit in spite of directions given.

11. In view of the above circumstances, we hereby direct the respondent No. 1, Mr. Narendra Kumar Agarwal to deposit the said amount of Rs.76,693/- (Rupees Seventy Six Thousand and Six Hundred Ninety Three only) with the RP, Mr. Niraj Kumar Agrawal within two weeks of communication of this order to him. If he failed to do so within the aforesaid time, appropriate order will be passed under the provisions of the Insolvency and Bankruptcy Code, 2016.
12. List the IA(IBC)/1423(KB)2022 for reporting compliance of the aforesaid order on **16/10/2023**.
13. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
14. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Balraj Joshi
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Signed on this, the 2nd day of August, 2023.

hb.