

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENCH AT ALLAHABAD**

I.A 204/2020, IA NO. 228/2020 IN
CP NO.(IB) 355/ALD/2019

IN THE MATTER OF

**Sumit Shukla
Resolutional Professional**

.....Applicant

In the matter of :

Ram Alloy Casting Private Limited

.....Financial Creditor

v.

Trimurfi Concast Private Limited

..... Corporate Debtor

ORDER DELIVERED ON :11.08.2021

CORAM:

Hon'ble Mr. Justice (Retd.) Rajesh Dayal Khare, Member, Judicial

For the Resolution Professional: Mrs Babita Jain, Advocate

Per se: Mr. Justice (Retd.) Rajesh Dayal Khare, Member (Judicial)

ORDER

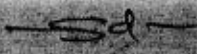
1. The present applications i.e.IA No. 204/2020 and IA No. 228/2020 in CP (IB) No. 355/ ALD/2019 has been filed under Section 19(2) & Section 60(5) read with rule 11 of the NCLT Rules, 2016 of the Insolvency and Bankruptcy Code, 2016 praying for issuance of necessary directions to the Suspended Directors and Statutory Auditors of the Corporate Debtor to provide assistance, co-operation and information required by the Resolution Professional in discharging his statutory duties and in managing the affairs of the Corporate Debtor and further for issuance of necessary directions to respondents for submission of information in pursuance to the claim submitted by Financial Creditor-Respondent no.1.



2. In the present matter, this Tribunal vide order dated 24.12.2019 has itimated CIRP against the corporate Debtor i.e Trimurti Concast Private Limited and appointed Mr. Sanjay Kumar Dewani as Interim Resolution Professional and later Mr. Sumit Shukla was confirmed as RP vide order of this tribunal dated 05.05.2020.
3. It is stated by the learned counsel for the RP that the Applicant contacted Respondent No.2 Shri Ashok Sharma and IRP Sanjay Kumar Dewani on 13th May, 2020, through video conferencing, and requested to provide all the documents/records (electronic and physical) pertaining to the corporate debtor as well as in connection with the present Corporate Insolvency Resolution Process. Further, the applicant also contacted the Statutory Auditors through phone and email and personally visited the office of the Statutory Auditors of the Corporate Debtor.
4. Further, the Applicant has sent emails to the Respondents i.e the Suspended Directors and Statutory Auditors on various occasions i. e on 15/5/2020, 19/5/2020, 20/5/2020, 24/5/2020, 26/5/2020, 28/5/2020, 29/5/2020, 7/6/2020 seeking clarification/information/details/records etc. pertaining to the Corporate Debtor but no reply has been received by the applicant and because of non-cooperation by the Respondents, the Applicant was unable to provide requisite details to the valuers.
5. Further submitted that the Resolution Professional convened the 3rd CoC Meeting on 25.06.2020 wherein the matter was discussed in details in presence of Respondent No.1 & 2 but the Statutory Auditors has not attended the meeting all though being called for.



6. It is further submitted that due to non-availability of the complete books of accounts/financial records and deliberate non-cooperation by the respondents, the CIR Process is getting affected and the applicant is not able to perform his duties and further is not able to ascertain the complete status of the Corporate Debtor which will ultimately delay and defeat the time frame of the duties, responsibilities of the Applicant as mandated in the Insolvency and Bankruptcy Code, 2016.
7. It is further stated that during a meeting with the ex-management on 15/07/2020 the RP was provided with the bank statement and further the list of assets has also been provided to the RP but the following documents does not meets the requirements of the RP/ valuers /Accountants/Auditors/other stakeholders for the effective CIR Process.
8. In IA No. 228/2020, it is stated that the Resolution Professional sent email on 29th May, 2020 to the Respondent No. 2, 3 & 4 for submission of information in connection the claim of Respondent No. but to which no reply has been received to the applicant by the respondents.
9. Further perusal of the records shows that notices were issued to the respondents which were duly delivered by post as well as by email but the inspite of various opportunities being granted , the respondents have not appeared nor any reply has been filed, thus on 22.02.2021 , the matter was put for ex partee hearing and on the date of hearing also i.e on 28.07.2021, the respondents chose not to appear, thus the matter was heard and the order was reserved.



10. Before considering the application, it is evident to produce Sec 19 IBC, which is as quoted below:

"19. (1) The personnel of the Corporate Debtor, its promoters or any other person associated with the management of the Corporate Debtor shall extend all assistance and cooperation to the interim resolution professional as may be required by him in managing the affairs of the Corporate Debtor.

(2) Where any personnel of the Corporate Debtor, its promoter or any other person required to assist or cooperate with the interim resolution professional does not assist or cooperate, the interim resolution professional may make an application to the Adjudicating Authority for necessary directions.

(3) The Adjudicating Authority, on receiving an application under sub-section (2), shall by an order, direct such personnel or other person to comply with the instructions of the resolution professional and cooperate with him in collection of information and management of the Corporate Debtor."

11. In view of the facts of the case on hand and after considering the provisions contained thereof, this adjudicating Authority is of the view that the ex-management are collectively as well as independently, must furnish information and assist the RP in managing the affairs of the Corporate Debtor in order to enable the RP to complete the CIRP expeditiously and therefore, the persons who can cooperate with the RP and persuade the other managerial personnel to supply the documents, cannot escape their obligation.

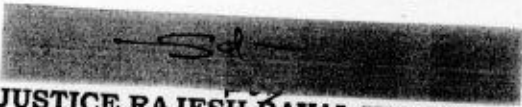
12. Accordingly, this Adjudicating Authority in order to implement the intention of the Code directs the suspended Directors and managerial persons to extend full cooperation and simultaneously furnish all the information of their accounts as well as all the information as required by the Resolution Professional to complete the CIRP efficiently and in time bound manner and RP is further directed to take



possession of the whole record. Further, when information are in knowledge and possession of the Directors, they shall be held responsible for non- submission

13. of the information as well as for non- cooperation with the RP as prescribed under Section 19 of the Code, and shall therefore be liable for punishment under Section 70 of the Code, if information is not provided further.

14. Accordingly, the applications are hereby allowed and disposed of.



JUSTICE RAJESH DAYAL KHARE

MEMBER (J)

Date: 11.08.2021

Swati Gupta
(LRA)