

NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH

CORAM : SMT. SUCHITRA KANUPARTHI, MEMBER (J)
SHRI V. NALLASENAPATHY, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **10.01.2020**

NAME OF THE PARTIES: M/s. Airen International Ltd.
v/s.
M/s. Durgashakti Foods Pvt. Ltd.

UNDER SECTION 9 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016.

ORDER

29. M.A 70/2020
In
C.P.(IB)3397(MB)/2019

M.A 70/2020

This is an application filed by a shareholder of the Corporate Debtor, which is under CIRP, praying for invoking Rule 11 of the NCLT Rules for recall of the CIRP order passed by this Bench in CP No. 3397/2019 on 16.12.2019. The above said CP was filed by Operational Creditor saying that the Corporate Debtor has defaulted in paying a sum of Rs. 6,27,726/-. This Bench has admitted the above petition and appointed Mr. Nam Kwahl as IRP. The IRP is also present. Ms. Prachi representing the Counsel for the Petitioner submits that operational creditor has no objection for allowing this Application for recall of this order, when the Corporate Debtor settles the debt of Rs. 6,27,726/- and expenses incurred by them to the extent of Rs. 3 lacs.

Counsel for the Applicant submits that they are ready with the demand draft, dated 06.01.2020 for Rs.6,27,726/-, drawn on UCO Bank, Akola Branch. Counsel for the Applicant handed over the demand draft to the Counsel for the Petitioner. The IRP submits that

he has received his fees and expenses. Counsel for the Applicant submits that his client will make the payment of Rs. 3 lacs. The Counsel for the Applicant submits that as soon as the resolution professional gives instructions to the bank for allowing debit entries in the account of the Corporate Debtor, the balance of Rs. 3 lacs will be paid to the Petitioner side immediately and the IRP agrees for the same. The Counsel for the Applicant has shown us an email of the UCO Bank which states that they have filed the claim before the IRP as a financial creditor and it is also stated that the cash credit account of the Corporate Debtor was satisfactory and regular. The IRP submits that the CoC has not yet been constituted.

Considering the above facts, this Bench is inclined to exercise the inherent powers under Rule 11 of the NCLT Rules, allows this Application. The order of admission of CIRP Petition passed by this Bench is recalled and the Petition is closed. Corporate Debtor is relieved from rigour of CIRP. IRP is relieved and directed to hand over the Company to the erstwhile directors.

This Application is disposed of in the above terms.

Sd/-
V. NALLASENAPATHY
Member (Technical)

Sd/-
SUCHITRA KANUPARTHI
Member (Judicial)