

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1



ITEM No. 222 – IA/802(AHM)2024
In
C.P.(IB)/147(AHM)2021

Proceedings under Section 7 IBC

IN THE MATTER OF:

INTEC Capital Ltd

V/s

H V Synthetic Pvt Ltd

.....Applicant

.....Respondent

Order delivered on: 25/06/2024

Coram:

Mr. Shammi Khan, Hon'ble Member(J)
Mr. Sameer Kakar, Hon'ble Member(T)

PRESENT:

For the Applicant : Mr. Mayur Kishanchandani, Advocate a/w.
: Mr. Anurag Nirbhaya, Advocate in person through V.C.
For the Respondent :

ORDER
(Hybrid Mode)

1. This is an application filed under Section 19 (2) of the IBC Code by the RP seeking co-operation from the Suspended Board Directors with the following reliefs.

“(a) Your Lordships be pleased to allow this interlocutory Application filed under Section 19 (2) of the Insolvency and Bankruptcy Code, 2016.

(b) Your Lordships be pleased to pass an order for issuing directions under Section 19 of the code to all the members of Suspended Board of Directors and Auditor (Respondent No. 3), erstwhile management of the Corporate Debtor i.e. the Respondent No. 1, and 2 to assist and cooperate with the applicant and to comply with the instructions of the applicant and provide all the information required as stated in paragraph 6 of the instant application as required under the Code and such other information and details as may be sought by the applicant during CIRP period.

(c) Your Lordships be pleased to pass any further necessary orders and grant such other and further reliefs, as are deemed fit and proper, in the interest of justice looking to the facts and circumstances.”



2. It is stated that CIRP was commenced in the matter vide order of this Tribunal dated 31.10.2023 in C.P. (IB) No. 147 of 2021 and Mr. S. Gopalkrishnan was appointed as the IRP in the matter. The said IRP was replaced by the order of this Tribunal dated 20.02.2024 through IA/325/2024 and present applicant/RP Mr. Anurag Nirbhaya was appointed. It is stated that several attempts have been made by the IRP and the RP and despite the same suspended directors have not provided single information to the IRP / RP so far.
3. While going through the application at page No. 8 para No. 7 it is noted as under:

“7. Furthermore, the erstwhile IRP also visited the factory premises of CD and the erstwhile IRP found out that CD has moved out all the machineries on which charge was created and not a single asset is present at the location. Therefore, the suspended management has moved out all the machinery without the permission of either of the secured creditors.”
4. Erstwhile RP has requested and advised time and again provide information, but suspended directors have neglected to do so. Suspended Directors have never provided the requisite information which they are duty bound under the provision of IBC, 2016. It is also stated that several mails and letters have been sent by the present RP to the suspended board seeking co-operation.
5. The matter was passed over and RP was directed to join the hearing through hybrid mode.
6. The present RP has joined the video conference hearing in hybrid mode and states that though he has conducted four CoC meeting, the suspended board has never appeared and attended the CoC meetings. It was also stated that in the CoC meetings held by the erstwhile IRP the suspended board has not appeared. RP states that he is not aware regarding the ownership of the premises where the factory of the Corporate Debtor is located. Admittedly, there are no machines lying inside the premises.
7. This is the first time through this application which was affirmed on 18.04.2024 i.e nearly five and half months from the date of commencement of the CIRP that an application under Section 19(2) has been filed either by the RP or erstwhile IRP. Particularly when location of the Suspended Directors are not available and the RP could not take control of the assets of the Corporate Debtor. We wonder why the IRP/RP has not taken any action in the last five months and whether the present application is just a paper formality.
8. Let notice be issued to the Suspended Management/Respondents by the Registry, returnable by next date. The Applicant/RP is directed to collect the



notice from the Registry within three days and serve upon the Suspended Management/Respondents through Registered Ad post / Speed-post, Dasti mode as well as on the registered email ID along-with copy of the I.A. within seven days and file the proof of services.

9. The Suspended Management/Respondents is directed to file reply within seven days from the date of receipt of notice. Rejoinder, if any, be filed with seven days thereafter.
10. Meanwhile, the Suspended Management/Respondents are expected to co-operate with the IRP/RP by handing over all the documents/papers, information and custody of all the assets of the Corporate Debtor in terms of Section 19(2) of IBC, 2016 as sought time and again from the Corporate Debtor within a period of 7 days.
11. We clearly see that the RP/IRP have not been functioning properly as per the Code and its attended regulations. Registry of this Tribunal is directed to forward copy of this order to IBBI and to the IPA of the RP and IRP in the matter and to report compliance.

Re-list on 08.07.2024.

**-Sd-
SAMEER KAKAR
MEMBER (TECHNICAL)**

**-Sd-
SHAMMI KHAN
MEMBER (JUDICIAL)**