

**ORDER BELOW EXH. 01 IN SPECIAL CASE NO. 46/2021**

1] Read complaint, perused documents. Heard Adv. Pankaj Vijayan for complainant.

2] Dy. General Manager of Insolvency and Bankruptcy Board of India filed this complaint under section 236 of the Insolvency and Bankruptcy Code for statutory non compliance, misrepresentation and misconduct made by accused persons which is punishable under section 70,73,19(1)r.w. sec. 235(A) of the Insolvency and Bankruptcy Code.

3] The brief facts giving rise to this case are as under.

Accused no. 1 to 5 are ex-key Managerial personnel of PMT machines Ltd. which is under liquidation. Accused no. 5 was officer/statutory auditor of that company (i.e. Corporate debtor). The petition filed against Corporate debtor before NCLT u/s 7 of I.B.C. was admitted on 22/10/2018 and thereafter Resolution professional was appointed on 20/11/2018. Thereafter that Resolution professional made communication with accused from time to time by various correspondence seeking information under the Act. Accused were bound to provide that information to him. But they failed to provide that information by giving lame excuses. Hence, Resolution Professional was constrained to approach NCLT for seeking direction against accused persons to give required information.



4] It was further observed that accused illegally inflated value of assets upto Rs. 5 crore. Therefore, income tax authority by its order dtd. 26/9/2014 imposed heavy penalty against them. On 18/6/2019 NCLT passed order directing the accused to furnish information. But despite that order accused failed to give that information. The accused failed to do their statutory duty of giving required information to Resolution Professional. For this statutory non compliance, misrepresentation and misconduct this complaint has been filed. The said acts of accused persons falls in following offences of Insolvency and Bankruptcy Code 2016.

i] Sec. 70 of Insolvency and Bankruptcy Code 2016 for committing misconduct, in course of corporate insolvency resolution process.

ii] Sec. 73 of Insolvency and Bankruptcy Code 2016 for making false representation to creditors.

iii] Sec. 19 r.w 235(A) of Insolvency and Bankruptcy Code 2016 for not extending co-operation to Resolution professional.

5] As per gazette notification of Govt. of India (Ministry of Corporate) dtd. 17/7/2019 this Court is authorized to take cognizance of this case. Along with this complaint, complainant has produced documents in support of these allegations. I have gone through those documents. They are at exh. A to J as per list of documents filed with complaint. The complainant has made out prima facie case

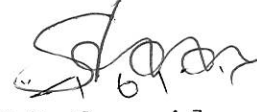
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for issuance of process against accused persons for committing above mentioned offences. Hence, I pass following order.

**ORDER**

Issue summons against accused no. 1 to 5 for commission of offences p.u.s. 70,73 19 r.w. 235(A) of Insolvency and Bankruptcy Code 2016. R/o: 01/03/2021.

Date : 06/02/2021.



[ S.S. Gosavi ]  
Addl. Sessions Judge, Pune.

झेराँक्स करणार *rc*  
रुजू पाहाणार *en*



सम्यक्प्रसा  
*93*  
प्रशासक, न्यायालय  
जिल्हा न्यायालय, पुणे.

12 FEB 2021

