

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, PRINCIPAL  
BENCH, NEW DELHI**

**Comp. App. (AT) (Ins) No. 1608 of 2023**

**IN THE MATTER OF:**

**Vikas Jeph**

**...Appellant**

**Versus**

**Anoop Bhatia Resolution Professional for Jeph Bev Pvt. Ltd.      ...Respondent**

**Present**

**For Appellant** : Mr. Gaurav Mitra, Vasu Goyal, Arjun Sanjay, Advocates

**For Respondents** : None

**O R D E R**  
**(Virtual Mode)**

**Per: Justice Rakesh Kumar Jain:**

**11.12.2023:** This appeal is directed against the order dated 19.09.2023, by which an application bearing I.A. (IBC) No. 617/JPR/2022 filed by the Resolution Professional of the Corporate Debtor (M/s Jeph Bev Pvt. Ltd.) under Section 60(5) r/w Section 68, 70 and 74 of the Insolvency and Bankruptcy Code, 2016 (in short 'Code') r/w Rule 11 of NCLT Rules, 2016 (in short 'Rules') has been allowed with a direction to the Respondent to reinstate the Corporate Debtor, in the same position as it was at the time of initiation of the CIRP, which includes the assets and the bank balance as on 16.09.2022, within a period of 10 days from the date of this order. It is further held that in case the direction is not complied with then the said Applicant shall be at liberty to move an application.

2. In short, the Resolution Professional filed the aforesaid application seeking following reliefs: -

“a. Issue necessary directions to Respondent Suspended Directors of the CD that the amount diverted/withdrawn/transfer of Rs.22,01,373/-(Rupees Twenty-Two Lakhs One Thousand Three Hundred Seventy Three) to be reversed and deposited in the bank account of the CD and to be contributed by the Erstwhile Directors of CD,

- b. Direct the Respondent Suspended directors of the CD to provide details of transaction performed during 16th September, 2016 to 22nd September, 2022 and details of beneficiaries in who's accounts the said amount was diverted;
- c. Hold that the Respondents have contravene the moratorium u/s 14 of the Code and have willingly caused loss to the Corporate Debtor;
- d. Issue necessary orders for initiating proceedings u/s 68,70,74 of the Code”

3. It is contended that the application filed under Section 7 of the Code by P.S. Metal Works (Financial Creditor) against the Corporate Debtor was admitted on 16.09.2022, IRP was appointed, who was later on confirmed as RP by the CoC in 1<sup>st</sup> meeting held on 20.10.2022. It is also contended before the Tribunal that initiation of CIRP suspends the powers of the Board of Directors of the CD under Section 17 of the code and also prohibits acts of transferring, encumbering, alienating or disposing of any assets of the Corporate Debtor but despite that an amount of Rs. 22,01,373/- was transferred from the bank account of the CD, maintained with the HDFC Bank Branch, Ajmer Road, to various accounts between the period 16.09.2022 to 22.09.2022 without any prior approval of the IRP/RP.

4. It is also the contention of the Applicant that withdrawing the money from the bank account of the CD post commencement of CIRP is in contravention of Section 14 of the Code. Keeping in view of the aforesaid facts and circumstances, the impugned order was passed, which has been challenged in this appeal.

5. The only argument raised by the Appellant is that the payments have been made to discharge statutory liabilities that too within a short period from the date of admission.

6. We have heard counsel for the Appellant and after perusal of the record are of the considered opinion that there is no error in the impugned order because once the order of admission was passed and moratorium is imposed

under Section 14 of the Code, the powers of the Board got suspended and management and the affairs of the CD vests with the IRP. Counsel for the Appellant also could not cite any precedent in his favour for the purpose of setting aside the impugned order.

7. In view of the aforesaid facts and circumstances, we do not find any merit in the present appeal and the same is hereby dismissed. No costs.

**[Justice Rakesh Kumar Jain]**  
**Member (Judicial)**

**[Naresh Salecha]**  
**Member (Technical)**

sheetal/ravi