

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

IA No. 734/2019

IN

CP(IB) No. 651/7/HDB/2018

Under Section 19(2) of I&B Code, 2016

In the matter of M/s.Sainath Estates Pvt Ltd

BETWEEN

Dr. K. V. Srinivas

Interim Resolution Professional

M/s.Sainath Estates Pvt Ltd

11-8-333 & 334, A-WANE,

OPP: Police Lines, Begumpet,

Hyderabad TG- 500016

...Applicant/IRP

AND

- 1) Mr. Udaycharanrao kokkerala raja venkata
1-8-505, Prakash Nagar,
Begumpet,
Hyderabad – 500016
- 2) Ram Mohan Nagula
1-8-505/11, Prakash Nagar exten,
Begumpet, Hyderabad-500016
- 3) Sylekhya Muddana
1-8-505, Prakash Nagar,
Begumpet, Hyderabad – 500016
- 4) Saini Satyanarayana Rao
Not Found

... Respondents





Order pronounced on 08.11.2019

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Hon'ble Shri Ratakonda Murali, Member (Judicial)

Hon'ble Shri Narendra Kumar Bholra, Member (Technical)

Counsels / parties present:

For the Applicant: Dr. K.V.Srinivas, IRP

Per: Hon'ble Shri Ratakonda Murali, Member (Judicial)

Heard on: 01.11.2019.

ORDER

1. The Interlocutory application IA.No. 734/2019 is filed by Interim Resolution Professional under Section 19(2) of I&B Code,2016 praying the Tribunal to direct the Respondents to furnish all the information required as detailed in para 7 of this application and to extend full co-operation to the IRP as may be required by him in managing the affairs of the corporate debtor.
2. Brief averments in the application:
 - a. It is averred that the financial creditor i.e Bank of India had filed an application under Section 7 of the I&B Code, 2016 to initiate CIRP against corporate debtor. In pursuant to that the Tribunal vide order dated

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08.06.2019 was pleased to admit the petition and appointed Dr. K.V.Srinivas as IRP.

- b. It is averred that the applicant had intimated the corporate debtor, the financial creditors and the banks about the commencement of CIRP in the matter of M/s.Sainath Estates Pvt Ltd vide email. The copy of email is enclosed to the application here with as Annexure-1.
- c. It is averred that there is no cooperation from the Corporate Debtor to the applicant when he had visited the Registered Office on 09.07.2019 along with his team armed with the Order of this Tribunal. In spite of advance intimation, there was only one office boy at the Office and therefore the Order of this Hon'ble Tribunal could not be served on the Board of Directors. The Applicant had served the Order of commencement of CIRP on the Board of Directors on their registered email address and the residential addresses as available with the ROC.
- d. It is averred that the Respondent Nos 1 to 4 are the Directors of the Suspended Board of the Corporate Debtor and are directly responsible for the operations of the Company. The Directors of the Suspended Board are not cooperating in providing the information sought by the Applicant.
- e. Material Information required from the Respondents by the Applicant for effective discharge of his duties and for the CIRP are mentioned below:
 - i. Books of Accounts of the CD maintained in ERP or in any other format for the last 8 Financial Years as per Companies Act.
 - ii. Latest Financial Position of the Company as on 08.07.2019

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- iii. List of Assets along with details of their location, Quantitative Details and value thereof
- iv. Assets and Liabilities, as on the insolvency commencement date classified into appropriate categories for easy identification, with estimated values assigned to each category
- v. List of Inventory along with their location, Quantitative Details and value thereof
- vi. List of Receivables with aging up to 3 years and estimated realizable value along with debtor's address, contact details etc.,
- vii. List of Creditors (financial, Operational, employees and others) along with their contact details
- viii. List of employees of the Company along with designation and contact numbers.
- ix. Details of various registrations that the company has along with login id and passwords. Details of Contingent Liabilities of the Company.
- x. Audited Financial Statements for the last 3 Financial Years
- xi. Details of Bank accounts along with login id and passwords;
- xii. ROC records and up-to-date minutes of all the meetings of the BOD (Board of Directors)
- xiii. Bills and Vouchers and other supporting records of the CD (corporate debtor) for the last 8 Financial Years
- xiv. Audited Financial Statements of the Corporate Debtor for the last 3 Financial Years and provisional financial statements for the current

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financial year made up to the date of commencement of CIRP.

- xv. A list of Creditors containing the names of creditors, the amount due to them, the amount of their claims admitted and the security interest, if any, in respect of such dues.
 - xvi. Particulars of a debt due from or to the corporate debtor with respect to related parties as on 08.07.2019
 - xvii. Details of guarantees that have been given in relation to the debts of the corporate debtor by other persons, specifying which of the guarantors is a related party
 - xviii. Name and addresses of the members or partners holding at least one percent stake in the corporate debtor along with the size of stake
 - xix. Details of all material litigation and ongoing investigation(s) or proceeding initiated by government and statutory authorities
 - xx. Number of workers and employees and liabilities of the corporate debtor towards them with detailed breakup for each item like Basic, DA, PF, ESI, F&F etc.,
 - xxi. Other information, which the Interim resolution professional deems relevant to the committee of Creditors
- f. It is further averred that the application is filed to speed up the CIRP process and for the efficient discharge of his duties under the code and no prejudice shall be caused to the parties herein.

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3. Reply/counter affidavit filed by the Respondents:

- a. Respondents aver that the instant application filed by the IRP under Section 19(2) of I&B Code, 2016 is not maintainable either in law or on facts of matter.
- b. Respondents denied the allegation made by the applicant regarding non-co-operation from the corporate debtor and the applicant could not serve the interim resolution process orders passed by this Tribunal as nobody was present in the office.
- c. Respondents aver that they have already furnished the information sought by the applicant and are ready to furnish any information that is required by the applicant provided that such information is available with them.
- d. Respondents aver that initially, the Hon'ble NCLAT, New Delhi, vide its orders dated 18.07.2019 and 22.07.2019 has categorically ordered that the IRP should not constitute the COC if not yet constituted and admittedly the COC was not formed as on that date and then the matter was posted to 21.08.2019.
- e. Respondents further averred that Hon'ble NCLAT granted three weeks' time to settle the matter but however, allowed the IRP to collate the claims and form COC if not reached the settlement by 11.09.2019 and further posted to 16.09.2019.
- f. Respondents aver that on 16.09.2019 Hon'ble NCLAT had said that in the absence of the stay, the IRP can continue the process of CIRP and finally reserved for orders on 16.09.2019. Therefore the allegation made by the applicant regarding non-cooperation is not true and may be pleased to dismiss the application.






4. This application is filed by IRP seeking direction to the respondents who are Directors of the Corporate Debtor Company to extend maximum support and co-operation of the Corporate Debtor Company for continuing CIRP Process.
5. We have heard IRP. He contended that Directors are not co-operating with him to discharge his functions. On the other hand Counsel appearing for respondents/Directors who contended that the directors never refused to provide the information to IRP.
6. Application is filed under section 19(2) of I&B Code. The Directors shall extend all help to the IRP as per provisions of Section 19(2) of I&B Code.

" Section 19(2) of Insolvency & Bankruptcy Code, 2016 stipulates that 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 co-operation to the Interim Resolution Professional as may be required by him in managing the affairs of the Corporate Debtor.


Where any personnel of the Corporate Debtor, its promoter or any other person required to assist or co-operate 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.


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 to cooperate with him in collection of information and management of the Corporate Debtor".

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7. Therefore direction to be given to the directors/Respondents herein not to cause any obstruction to the IRP in discharging his functions and managing affairs of the corporate debtor.
8. IRP shall be given free access to the books of accounts and permit him to manage the corporate debtor company and provide all the information required in para 7 of this application as far as possible to discharge his functions in accordance with the provisions of the Code.
9. In the result Application is allowed directing Respondents to extend over all support and co-operation to the RP to discharge his functions.
10. To provide the information as required in para 2(e) of this order, and to extend their co-operation in the ongoing CIRP of the corporate debtor as per the provisions of the code.
11. Petition is accordingly allowed.


8.11.19
NARENDER KUMAR BHOLA
MEMBER (TECHNICAL)


8.11.19
RATAKONDA MURALI
MEMBER (JUDICIAL)

Pavani