

IN THE NATION COMPANY LAW TRIBUNAL : NEW DELHI

COURT-III

IB-1410/(ND)/2018

IN THE MATTER OF:

M/s Ram Swarup Nathimal

VS

M/s Khairwala International Ltd.

.....PETITIONER

.... RESPONDENT

SECTION

Under Section 9 IBC, 2016

Order delivered on 08.07.2019

Coram:

R.VARADHARAJAN,

Hon'ble Member (Judicial)

Ms. Deepa Krishan,

Hon'ble Member (Technical)

For the Petitioner/Applicant

For the PNB

For the Corporate Debtor

: Karan Gandhi, Ms. Sudiksha, Adv.

: Abhinav Thareja, Hashmit, Rizwan, Adv.

ORDER

CA No. 416/C-III/ND/2019

This is an application filed by RP under Section 22(3) of the IBC, 2016 by the COC as represented by Punjab National Bank seeking for appointment of one Mr. Harjeet Singh Rehi as Resolution Professional in the place of IRP appointed by this Tribunal vide order dated 09.05.2019. Learned counsel for the applicant brings to the notice of this Tribunal that the Resolution seeking for the change of RP as contemplated under the provisions of IBC, 2016 was passed by the COC in its meeting held on 07, June, 2019 and as reflected in agenda item No. 10 and Punjab National Bank is the sole member of the COC, unanimous approval has been given to the change of RP and that the application is filed by the Punjab National Bank for change of the erstwhile IRP appointed by this Tribunal namely, Mr. Amit Gupta. Upon service of the application the petitioner who had initially initiated proceedings seeking for the invoking of the provision of IBC, 2016 and for the initiation of the CIRP raised an objection on the grounds that COC has failed to ratify the fees payable to the IRP as well as the expenditure incurred by the IRP during his tenure as an IRP. However, as Regulation

33(3) of the CIRP Regulations puts the onus for payment of the same on the applicant who has initiated the proceedings before us under IBC, 2016 seeking for the initiation of CIRP of the corporate debtor is required to pay the expenditure and fees to the IRP and upon expenditure being borne out by the applicant the same is required to be reimbursed by the Committee subject to its ratification. Under the said circumstances we over rule objection as made by the petitioner in relation to the change of IRP to the RP as sought to be made by the COC. In the circumstances this application as filed by the applicant is allowed and hence forth Mr. Harjeet Singh Rekhi is to act as the Resolution Professional and to carry forward the CIRP process of the corporate debtor as contemplated Under IBC, 2016. The out going IRP shall hand over all the records ^{Collected} ~~created~~ and collected to the RP. ~~and collected~~. Upon payment of expenditure to the IRP as well as the fees by the petitioner in the main CP, the same shall be placed before the COC and upon is ratification the same to be reimbursed to

the petitioner. With the above directions the application is

Wishwan
(WISHWAN)
MEMBER (TECHNICAL)

Varinder Kumar

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(R. VARADHARANAN)
MEMBER (JUDICIAL)