

**DIVISION BENCH**

**ITEM NO.116**

**NATIONAL COMPANY LAW TRIBUNAL**

**ALLAHABAD BENCH**

**PRAYAGRAJ**

**IA No.591/2023, IA No.609/2023, CONT. A. No.02/2024, IA No.109/2024 &**

**IA No.242/2024 IN CP (IB) No.89/ALD/2022**

**CORAM:**

**1. SHRI PRAVEEN GUPTA,  
HON'BLE MEMBER (JUDICIAL)**

**2. SHRI ASHISH VERMA,  
HON'BLE MEMBER (TECHNICAL)**

**Date of Order: 3<sup>rd</sup> May, 2024**

**Attendance-Cum-Order Sheet of the Hearing.**

<b>NAME OF THE COMPANY</b>	<b>GLOBAL NEW ENERGIES &amp; TECHNOLOGIES V/S DIVERSIFICATION AGRICULTURE PRODUCER COMPANY LTD.</b>
<b>UNDER SECTION</b>	<b>9 IBC (IN CIRP)</b>

**COUNSEL APPEARED THROUGH PHYSICAL/ VIRTUAL HEARING:**

Sh. Krishna Dev Vyas, Adv. : *For the Applicant in IA No.591/2023, IA No.609/2023 & CONT. A. No.02/2024*

Ms. Richa Singh Proxy for Sh. Sudhir Kumar Dash, CS : *For the Applicant in IA No.109/2024 & Res. in CONT. A. No.02/2024*

Ms. Surabhi Bhaskar, Adv. : *For the Applicant/RP Pawan Kr. Agarwal present in person in IA No.242/2024*

**ORDER**

**IA No.591/2023**

- 1.** This application has been filed U/s 19(2). The Ld. Counsel representing the RP states that the complete information has not been supplied by the Directors of the Ex-management.
- 2.** The RP is directed to list out the documents which are required by him and send the same to the Corporate Debtor which shall be supplied by the Directors of the Ex-management within a time bound manner not later than two weeks after receipt of the communication from the RP in this regard.
- 3.** The matter is adjourned for further hearing on 29<sup>th</sup> May, 2024.

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**IA No.609/2023**

1. In this case, the notice was issued, there is no response filed so far by the Respondents.
2. Let the needful be done within a period of three weeks.
3. The matter is adjourned for further hearing on 29<sup>th</sup> May, 2024.

**IA No.109/2024**

1. Ld. Proxy Counsel, Ms. Richa Singh representing on behalf of the Ld. Arguing Counsel, Sh. Sudhir Kumar Dash, states that the Ld. Arguing Counsel is not available today, and therefore she seeks a short adjournment.
2. The report on behalf of the RP has been filed in this application and the advance copy already supplied to the Ld. Counsel representing the Applicant.
3. The matter is adjourned for further hearing on 29<sup>th</sup> May, 2024.

**IA No. 242/2024**

1. This application has been filed by the RP U/s 60(5) of the Code, seeking termination of the CIRP proceedings. As per the memo of the parties, the Operational Creditor has been impleaded in the array of the respondents while moving this application U/s 60(5).
2. Ld. Counsel representing the RP as well as the RP seeks time to address the arguments as to the maintainability of the present application against the Operational Creditor itself, for the purpose of seeking any directions for termination of the CIRP proceedings.
3. Let the matter be adjourned for further hearing on 29<sup>th</sup> May, 2024.

**CONT. A. No.02/2024**

1. This contempt petition is sought to be initiated on behalf of the Erstwhile IRP allegedly for willful and deliberate violation and non-compliance of the order dated 1<sup>st</sup> January, 2024 passed by this Adjudicating Authority, which is placed at Annexure A-1 at Page No.16.
2. The case of the applicant is that whereas an application was moved for change of IRP, the erstwhile IRP who was sought to be replaced has

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intervened to the extent of the CIRP cost/fees to be paid to him to the tune of Rs.5.14 lakh. On this aspect, the authorized representative/ Counsel for the COC had stated that the name of the proposed RP, Sh. Pawan Kumar Agarwal has been approved by the COC in its meeting and he therefore, undertakes to pay the due amount of erstwhile IRP including the minimum fees prescribed under the Regulation 34B of IBBI Regulations, 2016 as well as the CIRP cost as per actual basis. He has therefore further, undertaken to take up the matter with the COC within a period of two weeks for releasing that the amount. It was after considering the undertaking given by the authorized representative of the COC, that this Adjudicating Authority in terms of the aforesaid order dated 1<sup>st</sup> January, 2024 allowed the IA No.669 of 2023 by replacing the erstwhile IRP with the present RP, Sh. Pawan Kumar Agarwal. It is stated by the applicant that this order has not been complied with.

3. The notice in this contempt application was issued to the authorized representative of the COC as well as to the sole member of COC/ Financial Creditor.
4. A reply has been filed on behalf of the COC through the authorized representative, wherein he has taken up diversified views not in relation to the proceedings initiated vide this contempt application, however relating to finding fault with the Operational Creditor for seeking to initiate the CIRP itself.
5. That is not an issue to the contempt application and certainly not intended with the undertaking rendered by the authorized representative as referred to in the aforesaid order dated 1<sup>st</sup> January, 2024. Prima facie, we are not convinced that the reply filed by the authorized representative, however, before initiating any contempt proceedings, we deem it appropriate to grant last opportunity to the authorized representative which is the Respondent No.1 in the contempt application as well as to the Respondent No.2 to

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represent and clarify the position with respect to the undertaken having been given by the authorized representative of COC on the aforesaid date when order dated 01.01.2024 has passed for replacing IRP with RP and not being adhered to has been categorically stated in the present contempt application.

6. Let the authorized representative appear and make a submission/clarification in this regard. It is made clear that in case, if he does not appear for clarifying the aforesaid position, further proceedings would continue in his absence.
7. The matter is adjourned for further hearing on 29<sup>th</sup> May, 2024.

**-Sd-**  
**(Ashish Verma)**  
**Member (Technical)**

**3<sup>rd</sup> May, 2024**

*Avaneesh Kumar Singh*  
*(Stenographer)*

**-Sd-**  
**(Praveen Gupta)**  
**Member (Judicial)**