

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1

ITEM No.212- IA/556(AHM) 2024
ITEM No. 213- IA/784(AHM) 2024
In
C.P.(IB)/238(AHM)2023

Proceedings under Section 7 IBC

IN THE MATTER OF:

Drip Capital Inc.

.....Applicant

V/s

Girdhari International Private Limited

.....Respondent

Order delivered on: 01/07/2024

Coram:

Mr. Shammi Khan, Hon'ble Member(J)
Mr. Sameer Kakar, Hon'ble Member(T)

PRESENT:

For the Applicant

: Mr. Monaal Davawala, Advocate

For the RP

: Mr. Neha, RP in Person

For the Respondent

: Mr. Chaitanya Patel, Advocate for R-1 & 2

For the SM

: Mr. Sachin Kadam, Advocate a/w.

: Mr. Sahil Kumar Agarwal, & Mr. Subodh Kumar
(Party in Person)

ORDER
(Hybrid Mode)

IA/784(AHM) 2024

1. This an application filed under Section 14 r.w. Section 74 & 60 of the IBC, 2016 with the following prayers:

- a) Direct the Respondent No. 1 and 2 to reverse the withdrawals undertaken from the bank account/s of the Corporate Debtor in breach of Section 14 of the Code; and/or*
b) direct the Respondent No. 1 and 2 to individually/jointly contribute the amount of Rs. 14,34,146/- to the bank account/s of the Corporate Debtor; and/or
c) initiate action against the Respondents under Section 74 of the Code for wilful contravention /breach of moratorium; and/or
d) grant any other relief or relief as may deem fit in the interest of justice.

2. After issuance of notice, a reply was filed on 27.06.2024, vide inward diary No. D-5064. In paragraph No. 4 of the reply, the respondent Mr. Sahil Kamal Agarwal, admitted and tendered an unconditional apology for the transactions conducted post commencement of CIRP and the declaration of the moratorium period. In paragraphs 7, 10, and 11, undertook and sought a request for a period of three months to reverse the transactions in the account of the corporate debtor.
3. We have heard the Counsel for the applicant as well as Counsel for the respondent and perused the records.
4. It is an admitted fact that, total amount of Rs 14,34,146/- was transferred from the corporate debtor account during the period of moratorium, which is a clear violation of Section 14 as admitted by the respondents themselves.
5. Therefore, we direct the respondent No.1 &2 to reverse the transactions, within a period of seven days from today.
6. RP is directed to file a compliance report on the next date of hearing.
7. Re-list on 09.07.2024, for reporting compliance.

IA/556(AHM) 2024

1. This is an application filed under Section 19(2) r.w. 60(5) of the IBC, 2016, seeking cooperation from the Suspended Board of Directors.
2. This application has been heard from time to time.
3. On 10.04.2024, notices were issued to the Suspended Board of Directors, and directions were issued to the Suspended Board of Directors to cooperate with the RP.
4. A reply has been filed by the Suspended Board of Directors in the matter on 23.04.2024, to which a rejoinder has been filed by the RP on 26.06.2024.
5. Vide order dated 26.06.2024, we directed the Suspended Board of Directors to remain present for the hearing today.
6. In response, the two directors of the corporate debtor, namely Mr. Sahil Aggarwal and Subodh Kumar Sharma, are present in the Tribunal today.
7. We also asked the RP representing M/s. Primus Insolvency Resolution & Valuation Pvt. Ltd., Ms. Neha who joined in the Hybrid Mode.

8. It has been alleged by the RP that the Suspended Board of Directors on two occasions have not permitted her to enter the premises and on the third occasion within few minutes of the entry of the RP they have left the premises.
9. The fact was not denied by the Suspended Board of Directors, who are present during the hearing today.
10. RP further states that due to the continuous non-cooperation by the Suspended Board of Directors, she has not been able to take complete control of the corporate debtor till now.
11. The account data backup on “busy” soft wear has not been provided.
12. The rental agreement has not been shared.
13. The various credentials of the various statutory portals have not been shared, and lists of the debtors and creditors have not been shared, etc.
14. We hereby direct the Suspended Board of Directors to remain present at the registered office of the corporate debtor on 04.07.2024, between 10:00 a.m. to 6:00 p.m. and hereby direct the RP to visit the registered office of the corporate debtor between 10:00 a.m. to 6.00 p.m. on 04.07.2024 and take complete custody of the corporate debtor. The Suspended Directors are directed to provide the information asked by the RP.
15. The concerned Senior Superintendent of Police (SSP) and Station House Officer (SHO) of the area are directed to provide police assistance for cooperation and for peacefully taking over charge of the corporate debtor by the RP on the date fixed.
16. Let copy of this order be also forwarded to the concerned SSP and SHO for compliance by the applicant RP.
17. The RP is also directed to report the compliance of today’s order by way of an additional affidavit after serving the same on the other side.
18. Re-list on 09.07.2024.

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SAMEER KAKAR
MEMBER (TECHNICAL)

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SHAMMI KHAN
MEMBER (JUDICIAL)