

NATIONAL COMPANY LAW TRIBUNAL  
COURT-V, MUMBAI BENCH

206. IA/2019/2021 IA/570/2021 C.P.(IB)/2677(MB)2019

**IN THE MATTER OF**

Mr Sanjeev Gupta

V/S

Neoteric Infomatique Limited

Section 9 of the Insolvency and Bankruptcy Code, 2016

**Order Delivered on 18.07.2024**

CORAM:

MS. REETA KOHLI  
MEMBER (J)

MS. MADHU SINHA  
MEMBER (T)

**Appearance through VC/Physical/Hybrid Mode:**

For the Liquidator:- Mr.Prakash Shinde (VC)

For the Respondent:

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**ORDER**

**IA 570/2021:- The prayers in the present IA filed by the IRP of Neoteric Informatique Limited are as follows:-**

*“a. That this Hon’ble Tribunal may be pleased to direct Respondent No.1 to 4 to pay the outstanding Professional Fees of Applicant totalling to an amount of Rs. 5,12,000/- (Rupees Five Lakh Twelve Thousand only) for being the Insolvency Resolution Process Cost calculated from 11.12.2019 to 17.03.2020 i.e. handover to the liquidator on receipt of order of liquidation;*

*b. That this Hon’ble Tribunal may be pleased to direct Respondent No. 1 to 4 to pay an additional cost of Rs. 75,000/-*

*(Rupees Seventy Five Thousand Only) being legal expenditure for filing the present application.”*

The case of the Applicant is that:-

*The Hon'ble Tribunal vide its order dated 11.11.2019 was please to admit the petition filed by one of the Operational Creditor Mr. Sanjay Gupta under Section 9 of the IB Code 2016. The applicant submits that applicant herein came to be appointed as Interim Resolution Professional (IRP) of Corporate Debtor Le. Neoteric Informatiques Limited. Then IRP in compliance of his duties made public announcement in prescribed Form A in newspaper viz. Free Press (Regional Language) and Navshakti (English) on 15.11.2019 calling for claim from creditors of corporate debtor.*

*The IRP in compliance of his duties prepared report of Constitution of CoC dated 03.12.2019 and subsequently revised report constituting CoC dated 13.12.2019 came to be filed before this Hon'ble Tribunal.*

*It is submitted that IRP convened First Meeting of CoC dated 11.12.2019 wherein members of CoC resolved to initiate liquidation process of the Corporate Debtor. The applicant submits that in the said meeting, members of CoC approved the Public Announcement Expenses, E-Voting Expenses and Advocate Fees for filing an application of liquidation, however, dissented/rejected Professional Fees of Rs. 3,00,000/- and Travelling and Conveyance Expenses of Rs. 15,450/-, totalling to an amount of Rs. 3,15,450/-. The applicant also negotiated*

*and proposed a Professional Fees of Ra 1,00,000/- per month or part of a month plus GST plus out of pocket expenses on actual basis from 11.12.2019 till the handover to the liquidator on receipt of liquidation order i.e. 17.03.2020, however, the members of Committee of Creditors rejected the same.*

*It is submitted that in the Second Meeting of CoC came to be convened on 09.01.2020 wherein members of CoC resolved to appoint Respondent No. 5 as liquidator of Corporate Debtor and further also resolved to pay Rs. 1,00,000/- per month or part of a month remuneration to the said liquidator and further only approved/ratified the insolvency resolution process cost upto the extent of Rs 18,850/ which include Rs. 8,850/ for E-Voting Service and Rs. 10,000/- for Traveling & Conveyance Expenses. Further, professional fees of IRP came to be rejected.*

*Then IRP pursuant to resolution passed in First and Second meeting, filed an application for liquidation of Corporate Debtor. It is submitted that this Hon'ble Tribunal vide order dated 04.02.2020 passed in M.A. No. 382 of 2020 in (P. (LB) No. 2677(MB)/2019 was pleased to allow an application and appointed Respondent No. 5 as liquidator of Corporate Debtor. Further, vide order it was also directed to CoC to consider the payment of IRP and further granted liberty to IRP to file an appropriate application before the Tribunal if the same is required.*

*It is submitted that from 04.02.2020 till date, IRP has made numerous correspondence to the members of CoC,*

*however, till date no payment is received. Thus, applicant being IRP is constrained to file present application.*

**The IDBI has filed its reply stating as under**

*“6. I further submit that the fees claimed by the Applicant as the IRP is totally disproportionate to the work done. This is evident from the fact that the Applicant initially sought fees of Rs.3,00,000 which was reduced to Rs. 1,00,000 and subsequently to Rs.75,000/- and finally to Rs. 60,000. This drastic drop in fees by the IRP over four successive times made the Committee of Creditors (“CoC”) doubt the proportionality of the fees to the work done and hence the Applicant’s fee quotes did not garner support at the CoC meetings and were voted against though however, the expenses were paid.*

*7. However, without prejudice to what has been stated above, to avoid further prolonging the matter and to put a quietus to the issue IDBI Bank as a member of the CoC is agreeable to pay its share of 8.18% of the Applicant’s fee of Rs.60,000.00 per month or part thereof as was consented to by the Applicant on 22.09.2020. This would also require the consent of the other CoC members who have received a higher ratio in the distribution of the liquidation assets.”*

An affidavit has been filed on behalf of the liquidator wherein the liquidator has stated that the case of the applicant was that in the 3<sup>rd</sup> COC meeting held on 25.02.2020 the IRP had informed them that he shall be charging an amount of Rs. 75,000/- plus 10 % out of pocket expenses. On

the other hand, the learned counsel for the liquidator submits that the said resolution was never ratified, and it was only a mere assertion of the Applicant which was never agreed and ratified upon by the COC members. On perusal of the record it is evident that the Applicant RP has agreed to a sum of Rs. 60,000/- per month there is an e-mail on record to that effect. The case of the Applicant is that vide an e-mail dated 20.09.2020 he agreed to an amount of Rs. 60,000/- per month on the condition that the said amount is to be paid within a period of 7 to 10 weeks or otherwise he shall be asking for an amount of Rs. 1 lakhs per month i.e. the same amount as has been agreed to be paid to the liquidator.

After having heard the learned counsels for the parties and on perusal of the documents on record, it is evident that the CoC never ratified any fee to be paid on the RP, it is RP who agreed to an amount of Rs. 60,000 per month. The Liquidator has already moved an application for the dissolution of the CD in which the learned counsel for the liquidator submits that they have made a provision stating that the IRP's fee shall be paid in terms of the directions of the Hon'ble Court. Be that as it may, in view of the fact, that no fee was ratified by the COC and also in view of the fact that the Applicant RP himself agreed to a sum of Rs. 60,000/- per month we deem it appropriate to direct all the three COC members namely IDBI Bank, Union Bank of India and Indusind Bank to bear the cost in proportion to their voting percentage at the rate of Rs. 60,000 per month

plus 10 percent out of pocket expense. The said amount is directed be paid to the RP within a period of 30 days from the date of the order. IA is **partly allowed and disposed of.**

**IA 2019/2021:- Adjourned to 22.08.2024.**

SD/-  
MADHU SINHA  
Member (Technical)  
//Anmol//

SD/-  
REETA KOHLI  
Member (Judicial)