

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
(through web-based video conferencing platform)

ITEM No.12
IA Nos. 84 and 252 of 2021 &
IA No.37 of 2022 in
CP (IB) No.305/BB/2019

IN THE MATTER OF:

M/s. Kotak Mahindra Bank ... Petitioner
Vs.
M/s. Arun Shelters Pvt. Ltd. ... Respondent

Order under Section 7 of Insolvency & Bankruptcy Code, 2016

Order delivered on: 29.08.2022

CORAM:

SH. KISHORE VEMULAPALLI
HON'BLE MEMBER (JUDICIAL)

SH. MANOJ KUMAR DUBEY
HON'BLE MEMBER (TECHNICAL)

PRESENT:

The RP : Ms. Sripriya Kumar, Adv.
For RP / IA No.252/2022 : Shri Vijay Kumar, Adv.
For IA No.84/2021 : Shri Akshay J. Simha, Adv.
For Respondent in IA 84/2021: Shri Gaurav Ramakrishna, Adv.
For IA No.37/2022 : Shri Rahul Dev, Adv.
For the Petitioner : Shri Achalanand, Adv.

ORDER

IA No.37 of 2022:

1. The instant application has been filed by Mr. Cheruku Lakshmi Narayana Reddy against the Corporate Debtor represented by its RP under Rule 11 of the NCLT Rules, 2016 seeking a direction to the RP to admit the entire claim of the Applicant being a sum of Rs.64,86,563/-; to include the entire claim of the Applicant in the updated list of claims; to direct the modification of the

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Draft Resolution Plan dated 30.06.2021, so as to make provision for the payment of the entire claim of Rs.64,86,563/- to the Applicant, etc.

2. Heard Shri Rahul Dev, learned Counsel appearing for the Applicant in IA No.37 of 2022 and Shri Vijay Kumar, learned Counsel for the RP and perused the pleadings of the party.
3. Brief facts of the Application *inter alia* are that the Applicant and Respondent entered into a contract of employment on 14.08.2015, whereby the Applicant agreed to enter into the employment of the Respondent from 21.08.2015, in the capacity of the Chief Financial Officer. It is contended that the Applicant was entitled to a monthly salary of Rs.2,25,000/-, but was paid only a sum of Rs. 1 Lakh from September, 2015; till he resigned from his post with effect from 31.12.2018.
4. Vide various emails, Applicant requested the Respondent to pay his unpaid salaries, however, no response was received. In the intervening period, Kotak Mahindra Bank filed an application under the Code to initiate CIRP in respect of the Corporate Debtor herein. The same was admitted by this Tribunal on 31.01.2020 and a RP was appointed. In response to the paper publication, the Applicant submitted his claim for the sum of Rs.64,86,563/- towards arrears of salary with interest on 17.02.2020, to the erstwhile RP.
5. Vide order dated 11.09.2020, a new RP was appointed and the Applicant again filed the claim before the RP. However, after various email correspondences, the RP informed the Applicant that only an amount of Rs.45,490/- was admitted. Hence, this Application has been filed.
6. The RP vide email dated 30.07.2021 informed the Applicant that the financial statements of the Company did not reflect any arrears of salary for the Applicant and the amount of Rs.45,490/- only was approved by the CoC for this purpose.

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7. The Ld. Counsel for the RP submitted that the Applicant being the CFO of the Corporate Debtor, the financials of the Company should have been properly maintained and reflected the arrears of salary. It is stated that there is nothing in the Balance Sheet showing that the salary is outstanding as on 31.03.2018. It is further contended that so far as the years 2015, 2016 and 2017 are concerned, the claims are hit by Limitation.
8. In view of the above discussion and the fact that the claim of the Applicant was considered by the CoC and only Rs.45,490/- was admitted in the Resolution Plan, the instant IA bearing **IA No.37 of 2022 is dismissed.**

IA No.252 of 2021:

1. Heard Ms. Sripirya Kumar, learned Resolution Professional and Shri Vijay Kumar, Ld. Counsel appearing for the Resolution Professional.
2. Ld. Counsel appearing for the RP is directed to file the revised Form-H as per the latest format prescribed by the IBBI.
3. **Order Reserved**, subject to making the above compliance, within two weeks.

IA No.84 of 2021:

1. Heard Shri Akshay J. Simha, Ld. Counsel appearing for the suspended Director of the Corporate Debtor and Shri Gaurav Ramakrishna, Ld. Counsel appearing for the Respondent No.2.
2. List the case on **15.11.2022.**

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MANOJ KUMAR DUBEY
MEMBER (TECHNICAL)

Krishna

-Sd-

KISHORE VEMULAPALLI
MEMBER (JUDICIAL)