

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
COURT – IV

ITEM No.406

**IA/913/ND/2023, IA/257/ND/2023, IA/5445/ND/2022,
IA/4792/ND/2022 IN IB/632/ND/2020**

IN THE MATTER OF:

Hellmann Worldwide Logistics India Pvt Ltd	...	Applicant
Versus		
Sea Air Consolidators India Pvt Ltd & Anr.	...	Respondent

Order under Section 9 of IBC 2016.

Order delivered on 10.03.2023

Coram:

**Mr. ASHOK KUMAR BHARDWAJ,
HON'BLE MEMBER (JUDICIAL)**

**DR. BINOD KUMAR SINHA,
HON'BLE MEMBER (TECHNICAL)**

PRESENT:

For RP in All the IAs : Mr. Roshan Kumar, Adv. with Mr. Rakesh
Kumar Jindal, RP in person
For the Respondent :

ORDER

IA/5445/ND/2022

Mr. Roshan Kumar, Advocate has appeared on behalf of the RP and submitted that by way of resolution passed in second meeting of CoC, the appointment of IRP as RP was confirmed. In view of the resolution so passed and averments made in the IA, the same is **allowed** and the appointment of Mr. Rakesh Kumar Jindal as RP has been approved w.e.f. the date of resolution passed by the CoC.

IA/4792/ND/2022

The Applicant has filed the captioned application under different provisions of IBC. We are of the view that the application is initiated by misjoinder of cause of action. Nevertheless, as the CIRP is time bound process, we are inclined to entertain IA under Section 19 (2) of IBC. The Applicant has served notice upon all three Respondents. But, only Respondent No.3 who is Chartered Accountant of the Company has turned up. He submitted that the responsibilities regarding the audit of CD was carried during the financial year 2014-15 & 2015-16. At this stage, he is not in a position to provide any information to the IRP/RP.

Once Respondent No.3 was appointed as Auditor by the CD, it cannot happen that no details or particular regarding the account of CD is available with him. Respondent No.3 should meet the Applicant in his Office on **20.03.2023** and Respondent No.3 would allow the Applicant to check all the records/documents regarding the affairs of the CD and would also direct his staff in office to extend full cooperation to the Applicant and provide all the information which can be made available to him to discharge his duty and function as RP in the matter.

In view of the submissions made by the RP and also the track report of the courier service, we find that Respondent Nos.1 & 2 are avoiding the service of notice as well as their participation in the present proceedings. The prayer made in the IA is innocuous and in accordance with the mandate of Sections 17, 18 & 19 of the IBC. In the wake, we deem it appropriate to direct Respondents No.1 & 2 to handover all the details, records, information/documents & moveable/immovable assets of the CD to the Applicant within four weeks. In the event, there being any valid and plausible explanation available either of the Respondent in not carrying out the directions as we have above mentioned, they would be at liberty to move appropriate application. Accordingly, the present application i.e. IA/4792/ND/2022 stands disposed of.

IA/257/ND/2023

For the reasons stated therein, the progress report is taken on record with all just exceptions. Accordingly, the present application i.e. IA/257/ND/2023 stands disposed of.

IA/913/ND/2023

Let this IA be listed for hearing before the **Regular Bench** on **14.04.2023**.

Sd/-

**DR. BINOD KUMAR SINHA,
MEMBER (TECHNICAL)**

Sd/-

**ASHOK KUMAR BHARDWAJ,
MEMBER (JUDICIAL)**