

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II

29. IA 584/2022 IA 1336/2022 IA 1443/2022
In C.P. (IB)/979(MB)2020

CORAM:

SHRI ANIL RAJ CHELLAN
HON'BLE MEMBER (T)

SHRI KULDIP KUMAR KAREER
HON'BLE MEMBER (J)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 10.04.2024

NAME OF THE PARTIES: India Resurgence ARC Private Limited
V/s
Indian Steel Corporation Limited

Section: 7, 60(5) of Insolvency and Bankruptcy Code, 2016

ORDER

IA No. 584/2022:- Adv. Dhaval Savla appeared for the Applicant/erstwhile RP. Counsel appearing for the Applicant states at bar that the present application was filed by the erstwhile RP seeking possession and control of certain land belonging to the Corporate Debtor. Counsel for the Applicant has further pointed out that in this case, a resolution plan has already been approved and implemented and the matter has been settled between the Successful Resolution Applicant and the person in possession of the land, therefore, the present application has been rendered infructuous. In view of the statement made by the Counsel for the Applicant, **IA No. 584/2022 is disposed of** having become **infructuous**.

IA No. 1336/2022:- Adv. Dhaval Savla appeared for the Applicant/erstwhile RP. Adv. Jash Shah appeared for the Respondent No. 1. List the IA No. 1336/2022 on **04.06.2024** for hearing.

IA No. 1443/2022:- Adv. Rajat Malu appeared for the Applicant. Adv. Dhaval Savla appeared for the erstwhile RP. The present application has been filed by the Applicant seeking direction against the Resolution Professional (Respondent No. 1) to make payment of Rs. 58,31,980/- against invoices dated 07.10.2021 and 08.10.2021. It is stated in the application that the Corporate Debtor was admitted into CIRP vide order dated 06.10.2021. The Applicant had been providing services against the work orders issued by the Corporate Debtor. As a matter of practice, the work done by the Applicant was first required to be verified and certified by the Corporate Debtor and thereafter the Applicant would raise invoices for the work done. The Corporate Debtor certified the works done by the Applicant on 07.10.2021. Thereafter, the Applicant raised invoices dated 07.10.2021 and 08.10.2021 for a sum of Rs. 58,31,980/-. In the reply filed by the Resolution Professional, the application has been opposed on the ground that even though the invoices in question were issued on 07.10.2021 and 08.10.2021 i.e. after commencement of CIRP but the amount of invoices cannot be treated as CIRP cost as against these invoices services were provided much earlier and not after the commencement of CIRP.

Having heard the Counsel for the parties, we are of the considered view that it is the admitted case of the Applicant in the application itself that the work was first done by the Applicant and the invoices were raised only after the work done has been verified and certified by the Corporate Debtor. Even though the invoices in question are dated 07.10.2021 and 08.10.2021 and the CIRP commenced on 06.10.2021, the amount of the invoices cannot be treated

as CIRP cost as the work was one prior to the commencement of the CIRP and claim on the basis of the invoices can be admitted only as an operational debt. Under the circumstances, Resolution Professional cannot be directed to make the payment of the invoices, as the payment in respect of the invoices does not constitute or falls within the definition of CIRP cost. Resultantly, **IA No. 1443/2022 is dismissed as disposed of.** However, the Resolution Professional shall admit the claim on the basis of the invoices in question as an operational debt, if already not admitted.

Sd/-

ANIL RAJ CHELLAN

Member (Technical)

10.04.2024

Sushil

Sd/-

KULDIP KUMAR KAREER

Member (Judicial)