(2019) 08 NCLT CK 0038

In the National Company Law Appellate Tribunal

Case No : (IB) No. 891 (PB) Of 2018

Kapil Arora APPELLANT

Vs

Vyom Infrastructure & Projects Pvt. Ltd. RESPONDENT

Date of Decision : 09-08-2019

Acts Referred:

Insolvency And Bankruptcy Code, 2016 — Section 12A, 19(2)

Citation : (2019) 08 NCLT CK 0038

Hon'ble Judges : M.M. Kumar, CJ;Santanu Kumar Mohapatra, Member (Technical)

Bench : Division Bench

Advocate : Vaibhav Mahajan, Ravneet Singh

Final Decision : Disposed Of

Judgement

CA-1269(PB)/2019:-

On the basis of the minutes of first meeting of CoC held on 29.04.019, the erstwhile RP has filed the instant application with a prayer to direct the CoC to reimburse the approved cost incurred by IRP on the CIR Process till 02.04.2019. Under agenda item no. 6 the following minutes were approved by the CoC on 29.04.2019 and along with the balance amount payable to the IRP which reads as under:-

"Approval of the Insolvency resolution process cost incurred till date and proposed to be incurred to complete the corporate insolvency resolution process in terms of the IBC Code

The RP presented the details of bills received from the IRP Mr. Ashutosh Jain i.e. for the work done till IRP period. The CoC discussed the same and approved the cost as detailed below. The RP put up further cost to be incurred of which one time cost on account of Floating EOI, cost of evaluation matrix and fees of two valuers with per month cost of which details are presented below with approval of the CoC.

It is resolved further that RP will take full attempt to generate sufficient funds in the account of CD so that CIRP cost is met. The RP informed that there is no operation in the company with almost nil balance in accounts and only source may be Maintenance Contract and Antriksh Developers & promoters Pvt. Ltd. It is also informed that if on sources are matured then RP will raise monthly bill to the CoC and CoC shall decide in between the respective share to be brought in by the CoC members shall deposit their share or as decided by them in between to the designated bank account of the CD as shall be advised by the RP through mail.

Cost Approved by the CoC for IRP period i.e. till 02.04.2019

Amount in Rs

Particulars

Total Expenses Incurred till 03.04.20 19 i.e. IRP period

Expenses Paid

Balance to be paid

Expenses Paid by

Approved/Not Approved by CoC

IRP Fees

75,000

0

75000

Paid by Kapil Arora

Approved

Cost of Public Announcement

50,400

50,400

0

Kapil Arora, Petitioner

Not Approved Cost not to be rectified by the CoC as it has to be borne by the petitioner

Travel, boarding cost of IRP

5500

5500

0

Ashutosh Jain, IRP

Approved

Legal Expenses Incurred for filing of constitution of CoC before NCLT

18880

0

18880

Unpaid

Approved

Legal Expenses Incurred

35400

10,000

25400

Kapil Arora

Approved

RoC filing and other fee

400

400

0

Ashutosh Jain, IRP

Approved

E voting

5310

0

5310

Unpaid

Approved

190890

66300

124590.0 0

A copy of the application has already been furnished to Mr. Arvind Bishwabandhu, learned counsel for the CoC. He has made submission that the amount approved by CoC is disputed. There is neither any affidavit filed nor any document placed on record to show any such dispute. In any case we refuse to accept that approved CoC minutes of meeting held on 29.04.2019, could be contradicted like this particularly when the Item No. 6 has been approved by overwhelming voting share of the CoC (page 41). Accordingly, we direct the CoC to comply with its own resolution and pay the balance amount as per the resolution dated 29.04.2019 passed in first meeting of CoC.

The application stands disposed of.

CA-381(PB)/2019:-

This is an application filed under Section 19(2) of the Code, requiring the Ex.-management to appear before the RP and co-operate. However, learned counsel for the corporate debtor states that in pursuance of Section 12A of the Code, the matter has been settled and appropriate application has been filed but the same is yet to be listed.

List for further consideration on 27.08.2019.

