
(2023) 12 NCLT CK 0022

In the National Company Law Tribunal

Case No : IA No. 4329 Of 2023 In C.P. (IB) No. 934/MB/2020

**Mr. Amit Sangal Proprietor Of M/S. Nitin Plastic Vs Kairav Anil Trivedi
Resolution Professional Of M/S. Prince Mfg Industries Private Limited ?**

Date of Decision : 08-12-2023

Acts Referred:

Insolvency and Bankruptcy Code, 2016 — Section 9, 61(3)

Citation : (2023) 12 NCLT CK 0022

Hon'ble Judges : Kuldip Kumar Kareer, Member (J); Anil Raj Chellan, Member (T)

Bench : Division Bench

Advocate : Anuj Solanki, Vaibhav Rai

Final Decision : Disposed Of

Judgement

1. The Applicant is one of the operational creditors of Prince Manufacturing Industries Private Limited, who filed the present application to allow and direct the Registry/Registrar/Deputy Registrar the Respondent No. 2 to inspect and obtain a certified copy of the Resolution Plan as also the copy of the application bearing IA (IBC)/2977/2022 filed for approval of the Resolution Plan along with all documents.

A conspectus of the facts necessary for the disposal of the present application is as follows:

2. The Applicant being an operational creditor of the Corporate Debtor, filed an application bearing C.P No: 934/2020 under Section 9 of the Insolvency and Bankruptcy Code, 2016 ('the Code') for initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor, which was admitted vide order of this Tribunal dated 05.10.2021 and appointed Mr. Kairav Anil Trivedi as Interim Resolution Professional (IRP) of the Corporate Debtor who was subsequently acting as Resolution Professional (RP).

3. The Committee of Creditors (CoC) has filed an application bearing IA No. 247/2022 for the replacement of IRP. Pending disposal of the said application, a Resolution Plan was filed before the Tribunal for approval of the Resolution Plan.

The Applicant alleged that the RP committed serious material irregularities during the CIRP in collusion with the suspended Board of Directors and also violated the provisions of the Code.

4. The Tribunal approved the Resolution Plan vide its Order dated 15.05.2023 against which the Applicant has filed an appeal before the Hon'ble NCLAT which is still pending.

5. The Applicant questioned the implementation of the Resolution Plan during the pendency of the Appeal and sought a copy of the Resolution Plan together with the application filed for approving the Resolution Plan before the Tribunal.

Submissions of the Applicant:

6. The counsel appearing for the Applicant submitted that the Resolution Plan was implemented on 30.06.2023 which is after issuance of notice by the Hon'ble NCLAT in the Appeal filed for challenging the approval of the Resolution Plan.

7. The counsel contended that after the approval of the Resolution Plan, it does not remain a confidential document and that when an Appeal under Section 61 (3) of the Code is filed, the Appellant should be provided with copy of the Resolution Plan as the Appellant will not be able to satisfy the Appellate Court without knowing the contents of the Resolution Plan. To buttress the above argument, the counsel relied on the decision of the Hon'ble NCLAT in the case of Association of Aggrieved Workmen of Jet Airways (India) Limited v. Jet Airways (India) Limited; 2022 NCLAT 36.

Submissions of the Respondent: -

8. The RP, the Respondent No. 1 filed his reply stating that IA No. 4039/2023 had earlier been filed by the Applicant seeking direction against the Registry of the Tribunal to provide certified copy of the Resolution Plan and Application bearing IA No: 2977/2022 which had been disposed of by this Tribunal on the grounds, inter alia, that the erstwhile RP or Monitoring Committee had not been impleaded in the Petition and that the Appeal being a continuation of the proceedings and still subjudice the Applicant cannot be held entitled to be supplied with a copy of the Resolution Plan.

9. After disposal of IA No: 4039/2023 by an Order dated 07.09.2023, the present IA has been filed with the same prayer, but after including the erstwhile RP as a party Respondent.

10. The counsel for the Respondent stated that once an Order has been passed for a specific prayer by the Applicant, this Tribunal does not have jurisdiction to pass any contradictory order for the same prayer by the same Applicant in the same matter. The counsel further stated that the present Application is an abuse of the process of law, and time and efforts of this Tribunal.

11. The Respondent No. 1 further submitted that substantial time has passed (more than 6 months) from the date of passing of the Resolution Plan and the

new Application for a copy of the Resolution Plan has been filed at a belated stage when he is aware that the Appellant cannot add any new points in the Appeal.

12. The Respondent No.1 further stated that another IA bearing IA No: 3525/2022 filed by the Applicant against the Resolution Plan had been dismissed on 15.05.2023 by the same Tribunal for the reasons stated therein. The Respondent also submitted that the Applicant suppressed many material facts such as filing of multiple Applications/Appeals for the same prayer, pendency of Contempt Petition No. 8/2023 pending against the Applicant for fraudulently obtaining confidential documents (minutes of CoC), and his PCS/lawyer for misrepresenting the facts based on fraudulently obtained documents. On 21.09.2023, the oral request made by the Applicant for providing a copy of the Resolution Plan was also denied by the Hon'ble NCLAT.

13. The Respondent No. 1 contested that this Tribunal has no jurisdiction to consider the present Application as similar prayer has already been considered by the Tribunal and that the decision of Jet Airways (Supra) relied upon by the Applicant has no application in the facts and circumstances of the present case.

14. The Respondent No: 1 sought dismissal of the Application on the above grounds.

Analysis and Decision: -

15. We have heard the counsel for the parties and perused the records.

16. It is matter of record that the Applicant had filed an Application for the same prayer in the same matter in IA No: 4039/2023 which has been disposed of by the Tribunal vide its Order dated 07.09.2023. In the circumstances, considering the present Application of the Applicant amounts to review of its own order. It has been a settled position that the Tribunal has no power to review its own order as held by the Hon'ble NCLAT in Union Bank of India (Erstwhile Corporation Bank) v. Dinkar T. Venkatasubramanian and Ors.

17. In view of the above, we do not consider it appropriate to examine afresh the merits of the contentions raised by the Applicant in the present Application. Further, the Appeal filed by the Applicant in presently pending consideration before the Hon'ble NCLAT and the Applicant is at liberty to seek suitable reliefs including for making available a copy of the Resolution Plan to effectively satisfy the Appellant Court as pleaded by the Applicant.

18. Having regard to the above, IA No. 4329/2023 is dismissed.