

(2019) 09 NCLT CK 0069

In the National Company Law Appellate Tribunal, Pricipal Bench, New Delhi

Case No : Company Application No. 304/ND Of 2019, Company Application No. 332/ND Of 2019, (IB)-1422(ND) Of 2018

M/s. Ganesh Rice And General Industries APPELLANT

Vs

M/s Umachi Foods And Commodities Pvt. Ltd. RESPONDENT

Date of Decision : 25-09-2019

Acts Referred:

Insolvency And Bankruptcy Code, 2016 — Section 60(5)

Citation : (2019) 09 NCLT CK 0069

Hon'ble Judges : Dr. Deepti Mukesh, J; Hemant Kumar Sarangi, Member (Technical)

Bench : Division Bench

Advocate : Sameer Dawar, Ritesh Agrawal, Abhindra Maheshwari, Saurabh Jain

Final Decision : Disposed Of

Judgement

Hemant Kumar Sarangi, Member (T)

1. This order will dispose of CA No.304/ND/2019 and CA No.332/ND/2019 filed by the IRP in the matter of (IB) 1422/ND/2019 of M/s. Ganesh

Rice and General Industries Vs M/s. Umachi Foods and Commodities Pvt. Ltd.

2. CA No.304/ND/2019 was filed by the IRP Mr. Ajit Sood u/s 60(5) of Insolvency & Bankruptcy Code (IBC), 2016 for directions to discharge the

applicant as Interim Resolution Professional (IRP) of the Corporate Debtor. It is seen from the submissions in this CA that IRP was appointed on

19.08.2019 along with admission of CIRP against Corporate Debtor (CD) on the same date. The IRP has submitted that the information regarding his

appointment was sent by e-mail to him after he had already embarked on an overseas travel on 23.08.2019. He has annexed copy of his flight tickets

and immigration stamp etc. By his e-mail, reply dated 24.08.2019 and 26.08.2019, he had apprised the court officer about his overseas travel and exceptional circumstances which were beyond his control, because of which he could not take up the assignment. The IRP has submitted that he returned to India on 02.09.2019 and filed the application CA No.304/ND/2019. seeking discharge of himself as IRP in the matter. The IRP has cited other professional commitments and personal difficulties due to which, he is not in a position to take up any other professional engagement. With these submissions, he has prayed for discharge as IRP and appointment of another IRP for the Corporate Debtor in this matter.

3. Having heard the submissions made by the counsel for the IRP in CA No.304/ND/2019, this Bench had taken a view vide order dated 11.09.2019

that in this matter, notice needs to be issued to the Insolvency and Bankruptcy Board of India (IBBI) for their observation and the matter was listed for 01.10.2019.

4. Meanwhile, the IRP Mr. Ajit Sood has filed another CA No.332/ND/2019 on 17.09.2019 again u/s 60(5) of IBC, 2016 for clarification/modification of the order dated 11.09.2019 of this Tribunal and directions. The IRP has made submission that while his application vide CA No.304/ND.2019 is being considered by this Tribunal, the CIRP of CD is getting delayed and therefore, he seeks directions of this Tribunal to which he has submitted his willingness to abide by completely.

5. Having heard the submissions made by the learned counsel on behalf of the IRP Mr. Ajit Sood in CA No.332/ND/2019 and keeping in view the facts and circumstances cited in his CA No.304/ND/2019 filed earlier, we are of the view that the order dated 11.09.2019 of this Tribunal needs to be modified to the effect that the notice issued to the IBBI in this matter may be set aside and the IRP Mr. Ajit Sood may be allowed to be discharged as IRP in this case and a new IRP may be appointed in his place so as not to further delay the CIRP of this case. The applicant in (IB) 1422(ND) 2018, M/s. Ganesh Rice & General Industries is allowed to nominate a new IRP in place of Mr. Ajit Sood and the CIRP may proceed forthwith. With these observations, these two CAsâ?? No.304/ND/2019 and 332/ND/2019 are allowed and disposed of accordingly.