

IN THE NATION COMPANY LAW TRIBUNAL : NEW DELHI

COURT-III

IB-183(ND)/2018

IN THE MATTER OF:

M/s Air Shagoon (Network) Pvt. Ltd.

vs

M/s Associated Trade Logistics Pvt. Ltd.

.....PETITIONER

.... RESPONDENT

SECTION

Under Section 9 IBC 2016

Coram:

R.VARADHARAJAN,

Hon'ble Member (Judicial)

Ms. Deepa Krishan,

Hon'ble Member (Technical)

Order delivered on 23.01.2019

For the Petitioner/Applicant :

For the Indian Overseas Bank :

For the Corporate Debtor :

Ms Mayuri Raghuvanshi, Mr. Vyom Raghuvanshi, Adv.

Mr. Ashok Juneja, Mr. Mithlesh, Singh, For IRP Durga

Dass Agarwal,

ORDER

Learned counsel for the IRP as well as the Learned counsel for the Financial Creditors namely Indian Overseas Bank are present. From the compilation as filed by the bank it is evident at page No. 29 of the said application for reimbursement of the expenses which has been sought by the IRP along with the break up as follows:-

Sr. No.	Particulars	Amount (Rs.)
1.	Conveyance and other expenses	8,000/-
2.	Fee for legal consultant to M/s Mantrah Law House LLP	30,000/-
3.	Public announcement expenses	19,152/-
4.	Fee to IRP as an interim Resolution Professional	2,00,000/-
Total		2,57,152/-

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At page No. 30 since the change in relation to the appointment of IRP has been contemplated by the Indian Overseas Bank further claim of Rs. 7,10,000/- has been raised by the IRP the break up of which is as follows:-

Sr. No.	Particulars of expenses/fee	Amount (Rs.)
1.	Reimbursement of Legal Consultancy fee to M/s Mantrah Law House LLP for three months from 07/09/2018 to 07/12/2018 @ Rs. 30,000/- p.m.	90,000/-
2.	Reimbursement of Rent venue charges for premises (vijaya building) for holding 4 COC meeting @ Rs. 5000/- per meeting	20,000/-
3.	Fee to IRP/RP Sh. Durga Das Agarwal for three months from 07/09/2018 to 07/12/2018 @ Rs. 2,00,000/- per meeting	6,00,000/-
Total		7,10,000/-

From the above tables as furnished by the Financial Creditors namely Indian Overseas Bank it seen from the record that item No. 4 in the first table and item No. 3 in the second table is in relation to the fees which has been demanded by the IRP. Further it is represented by learned counsel for the financial creditor that expenses which has been incurred is not backed by necessary vouchers for COC and Indian Overseas Bank being the sole financial creditor having 100 per cent votes as to ratify such expenses. Let necessary vouchers be produced by the IRP within Indian Overseas Bank and let the expenses it in order be by the financial creditor and reimburse the expenses as contemplated in Regulation 34 of CIRP as framed.

In relation to the fees a total amount for service rendered claimed by the IRP it is represented by learned counsel for the IRP that the fees which has been raised of Rs. 8 lakhs is fair as the IRP is a Senior Charter Accountant having significant practice. However, considering all the facts it is appropriate that a sum of Rs. One lakh per month for the IRP



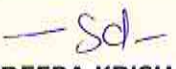
and thereby a sum of Rs. 4 lakhs be paid to the IRP in relation to the efforts/service which has been in relation to the CIRP of the corporate debtor. It is also brought to the notice of this Tribunal by the Financial Creditor that resolution professional who has presently offered his service based on the bids to act as an RP for the Corporate Debtor for the sum of Rs. 5 lakhs in entirety. However it will not assist the submission made by the learned counsel for the Financial Creditor, namely Indian Overseas Bank as in view of the fact that charging of fees depends upon the seniority of the Resolution Professional as well as valuable time which has been spent in relation to the CIRP process and other factors as well.

CA No. 02/C-III/ND/2018

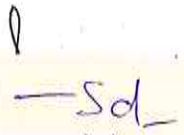
This is an application filed by the Financial Creditor stating that COC seeking for a change of Resolution Professional from the one appointed by this Tribunal namely Ms. Shalu Khanna, having registration No. IBBI/IPA-001/IP-P00875/2017-2018/11473. Learned counsel for the Financial creditor points out to item No. 7 in the minutes of the 4th COC meeting held on 15th September, 2018. From the perusal of the application it is seen that even though the law has been wrongly stated however, the relief which has been claimed is for the change of the IRP to RP as suggested by the COC. In the circumstances this application is treated an application under Section 22(3) of IBC, 2016. Hence based on representation by Indian Overseas Bank as having 100 per cent voting rights be changed as sought for in the RP. From the list as provided by IBBI to this tribunal, the proposed Resolution Professional is figuring at item No. 58 of the said list and in the circumstances the confirmation as required under Section 22 (3) may not be necessary and henceforth in relation to the CIRP, Ms. Shalu Khanna shall act as the Resolution Professional in relation to the corporate debtor. Let the outgoing IRP handover all the records and assets of the Corporate Debtor which are in his custody and all information collected shall also be handed over and discharge be obtained

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from the incoming Resolution Professional. In the circumstances this application is ordered as above.


(DEEPA KRISHAN)
MEMBER (TECHNICAL)

Varinder Kumar


(R. VARĀDHARAJAN)
MEMBER (JUDICIAL)