

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 107
CA-1326(PB)/2019

IN THE MATTER OF:

Mr. Vijender Sharma, Resolution Professional
of Sumeru Professors Pvt. Ltd.

..... Applicant

&

(IB)-1493(PB)/2018

IN THE MATTER OF:

Enkay (India) Rubber Co. Pvt Ltd
v.

.... Applicant/petitioners

Sumeru Processors Pvt Ltd

.... Respondent

Order under Section 7 of Insolvency & Bankruptcy Code, 2016(Liq.)

Order delivered on 04.11.2020

CORAM:

SH. B.S.V. PRAKASH KUMAR
HON'BLE ACTG. PRESIDENT

SH. HEMANT KUMAR SARANGI
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant

Ms. Swarna, Adv.

For the Respondent

Ms. Anindita Saha for Mr. Dhiren Navlakha,
Advs. for R-1

Mr. Ishwar Mohapatra, Mr. Nalin Kaushik, Advs. for
erstwhile RP Mr. Vijender Sharma

Ms. Gurmeet Bindra, Adv. for HDFC Bank

ORDER

CA-1326/2019:-

With regard to the order dated 26.09.2019, this bench passed in CA-1326/2019 held that R3 (Mr. Neeraj Jha) shall handover the custody of the vehicles to the RP within one week and affidavit to that effect be filed and shall supply remaining documents, information that RP need along with detailed memorandum and the same shall be sent to each one of the respondents.

1

Against this order dated 26.09.2019, R3 has filed a Review Application under Rule 11 r/w 154 of NCLT Rules, but no stay has been granted over the order dated 26.09.2019.

At threshold it is pertinent to mention that review power has not been given to NCLT either in the Companies Act, Company Rules or under IBC therefore, if any party is aggrieved of any of the orders passed by this bench, the respective party ought to have filed an appeal before Hon'ble NCLAT but not to have sought review of the order, therefore Review Application is hereby dismissed as misconceived.

Since the Liquidator has categorically mentioned this order has been passed against R3 alone and this order till date has neither been appealed and nor obtained stay against the said order, it shall be construed that the order dated 26.09.2019 is not complied with.

As against this, R3 Counsel has argued, he has never been instrumental in relation to the affairs of the debtor company, R1 and R2 alone are responsible to the actions in the debtor company because they are the founder directors of the debtor company. With regard to Porsche Car HDFC Bank talking of, it is not in the control and custody of R3, if at all anything is known about this vehicle, it must be known to R1 & R2, therefore he should not be framed as person responsible to hand over it to the Liquidator.

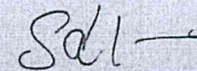


Whatever be the reasons for R3's inability to hand over it to the liquidator, today there is an order against R3 that has not been complied with. This order was passed one year before.

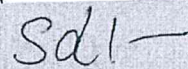
In the back drop of these facts, we have no other option except to give effect to the order already passed. In view thereof, we hereby direct the Liquidator, as per section 429 of the Companies Act 2013, to take the assistance of the Commissioner of Police in which jurisdiction this company is lying to locate the vehicle by showing the order already passed by this Bench on 26.09.2019. The Commissioner of Police is hereby suggested to assist the Liquidator in taking the custody of the vehicle within fifteen days hereof.

The reason is the Bank financed the vehicle could not get back the vehicle lying in the name of the debtor company nor could get any payment. If any delay happens in tracing the vehicle, the value of it will get further reduced.

List on 10.12.2020.



**(B.S.V PRAKASH KUMAR)
ACTG. PRESIDENT**



**(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)**

04.11.2020
Ritu Sharma

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erstwhile RP Mr. Vijender Sharma
Ms. Gurmeet Bindra, Adv. for HDFC Bank

ORDER

CA-2548/2019

R-2 has not filed reply. He is directed to file reply within one week.

List on 10.12.2020.

sd/—

(B.S.V PRAKASH KUMAR)
ACTG. PRESIDENT

sd/—

(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)