

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

I.A.No.299 of 2019 in  
C.P.(IB)No.51/BB/2018  
U/s 60(5) of the IBC, 2016  
R/w Rule 11 of the NCLT Rules, 2016  
R/w Section 425 of the Companies Act, 2013

**In the matter of:**

**M/s.Associate Décor Limited**

*Represented by the Resolution Professional*  
*Mr. Alok K. Seksena*  
Plot No.1, Phase 4,  
KIADB Industrial Estate, Kolar,  
Malur – 563 130.

- Applicant/Resolution  
Professional

**Versus**

**M/s.Inland World Logistics Pvt. Ltd.**

P-221/2, Strand Bank Road,  
Kolkata – 700 000.

- Respondent

**Date of Order: 18<sup>th</sup> November, 2019**

**Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)  
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

**Parties/Counsels Present:**

For the Applicant/RP : Ms. Jayati Goyal

For the Respondent : Shri B.T. Prasanna Kumar

**ORDER**

**Per:** Rajeswara Rao Vittanala, Member (J)

1. I.A.No.299 of 2019 in C.P.(IB)No.51/BB/2018 is filed by M/s.Associate Décor Limited, represented by the Resolution Professional (hereinafter referred to as 'Applicant/Resolution Professional') U/s 60(5) of the IBC, 2016, R/w Rule 11 of the NCLT Rules, 2016, R/w Section 425 of the Companies Act, 2013, by inter



alia seeking to punish the Respondent i.e., M/s.Inland World Logistics Pvt. Ltd. for wilful disobedience of the order dated 29.03.2019 in the interest of justice and equity.

2. Brief facts of the case, as mentioned in the Application, which are relevant to the issue in question, are as follows:

(1) The main Company petition filed by Oriental Bank of Commerce, a Financial Creditor, under Section 7 of the IBC, 2016 R/w Rule 4 of the I&B (AAA) Rules, 2016 was admitted by this Adjudicating Authority vide order dated October 26<sup>th</sup>, 2018 ('Admission Order') by initiating CIRP, appointing Shri Alok K. Seksena, (IBBI Registration No.IBBI/IPA-001/IP-P00056/2017-2018/10134 as appointed as the IRP, moratorium etc. The IRP published the public announcement/notice on 28.11.2018 in the daily newspapers calling for claims from the general public against the Corporate Debtor and thereby initiated the CIRP against the Corporate Debtor.

(2) It is stated that in furtherance of the above mentioned public notice and initiation of CIRP, the Respondent herein i.e., M/s.Inland World Logistics Pvt. Ltd. submitted Form-B to his office for INR.24,51,345/- towards alleged unpaid invoices for the period prior to 26.10.2018. At this point of time, the Applicant informed the Respondent that all claims in Form B, D will be settled at the end of the CRIP. It was also made clear that towards supply of goods and services from 26.12.2018 will be paid and are being paid after submissions of bills on an immediate basis. Subsequently, in the month of December 2018 (18-22 December 2018), the Respondent approached the Applicant so as to provide transportation service to the Applicant and thereby sent 5 vehicles to transport the goods of the Applicant worth INR27,73,556/- to various locations. The Applicant also generated e-way bills for the above goods,



thereby attracting GST for both the Applicant as well as the Consumer.

(3) Since the Respondent did not return the goods and was insisting on the lien on the goods, the Applicant was constrained to file CA No.95 of 2019 and it was disposed by an order dated 29.03.2019 by directing to release the seized goods, to the IRP immediately. The Applicant, on various occasions approached the Respondent so as to have the goods returned/released to them. But however, on each occasion the Respondent wilfully disobeyed the orders of this Tribunal by not returning the seized goods. Even as of today the seized goods are in the custody of the Respondent and there is a threat of the goods completely deteriorating further. In fact the Respondent issued an email on 05.04.2019 to the Applicant citing that the goods can be returned only if (a) Freight charges for return journey, on delivery and (b) Renewal of expired Way-Bill or generation of new way bill for return journey are borne by the Applicant. The Respondent has violated the orders and thus it is liable for action under Contempt of Court Act.

3. The Respondent has filed Statement of Objections dated 23.07.2019, by inter alia contending as follows:

(1) It is stated that Resolution Professional had sought for release of goods, which were in the custody of this Respondent for non-payment of lawful dues to this Respondent and since this Respondent filed memo dated 29.03.2019 bringing to this Tribunal that the Respondent has already filed claims for a sum of Rs.24,51,345/-(Rupees Twenty Four Lakhs Fifty One Thousand Three Hundred and Forth Five Only) in Form-B under the Insolvency and Bankruptcy for the period prior to 26.10.2018 to the public notice issued by the IRP. The Resolution Professional has already admitted the claim submitted by them to an extent of Rs.23,85,967/-. And there is



difference of sum of Rs.65,378/-. The Respondent had no-objections to release the goods from their respective warehouses subject to payment of their lawful dues and this Tribunal directed to release the goods and regarding payment of dues shall be decided at the time of deciding the main petition by its order dated 29.03.2019.

- (2) The Applicant i.e., M/s.Associate Décor Ltd. had booked the said 5 consignments on various dates to various destinations like, Delhi, Nagpur, Ajmer and Kolkata. As on date of the order passed by this Tribunal, all the goods were reached to their respective destinations and were kept in ware houses of this Respondent and after passing the order, the Applicant sought to re-deliver the said goods to their factory address at Malur, Karnataka and further also stated that their quality/marketing team will inspect the goods condition and inform further course of action to Respondent after all the goods delivered back of factory by e-mail dated 02.04.2019.
- (4) It is also stated that the Respondent immediately replied stating that as per the orders passed by this Tribunal they are at liberty to take the goods on their own and in case, if the Applicant requires the Respondent to re-deliver the goods to their factory premises at Malur, Karnataka from its respective destinations for what so ever reason, shall can be done only on rebooking the consignments from various destinations and on generation of new e-way bills and they have to bear the costs incurred for transportation of the same. In order to avoid future legal conflicts, prior to transportation of goods or re-delivering to factory premises to inspect the goods by their quality/marketing team so that there shall be no disputes regarding the quality after delivering back the goods.
- (5) It is further stated that the Respondent never violated any law or Rule much less the orders passed by the Tribunal. On the

other hand, the Applicant without following the procedure and also obeying the orders passed by this Tribunal, demanding the Respondent to deliver the goods at their factory premises at Malur, Karnataka from various aforesaid destinations across India and at any circumstance, it cannot be transported back to the said destination without re-booking the consignments by the Applicant by generating new e-way bills by cancelling the earlier invoices. If any transporter is transporting the said goods without generating new e-way bills, the Applicant is set at liberty to transport it subject to confirmation done by the Quality/Marketing team of the Applicant after inspection of the goods.

(6) It is alleged that the Applicant suppressed the true facts before this Court at the time of passing the order dated 29.03.2019 by bringing the notice to this Tribunal that the goods which are at various destinations across India to be re-delivered to their factory address at Malur, Karnataka and it is claimed by the Applicant only after passing the orders by this Tribunal. The Respondent was willing and obeying to the orders passed by this Tribunal and at no point of time refused to hand over the goods to the Applicant. Hence, this application is liable to be dismissed on this ground itself by imposing heavy costs and the Applicant is trying to black mail the Respondent, stating that he is going to initiate false contempt proceedings against the Respondent, if goods are not delivered even though he is not generating new e-way bills. All the efforts made by the Respondent to enlighten the Applicant about the procedures adopted for transportation of goods went in vain.

4. Heard Ms. Jayati Goyal, learned Counsel for the Applicant/RP and Shri B. T. Prasanna Kumar, learned Counsel for the Respondent. We have carefully perused the pleadings of both the parties and extant provisions of the Code, and the law on the issue.



5. As stated supra, the Adjudicating Authority disposed of the IA No.95 of 2019 by an order dated 29.03.2019, by inter-alia directing to release goods immediately to the Interim Resolution Professional subject to decision to be taken with regard to the claim made by the Respondent, at the time of deciding the main case. The Respondent is not violated the order passed by the Adjudicating Authority, and only asked the Resolution Professional to follow the instant procedure for the service(s) dispute in question. However, the Applicant, without following the due procedure, has filed the instant Contempt Petition, without substantiating the alleged contempt committed by the Respondent. In order to initiate contempt proceedings, there should be wilful default/disobedience committed by the Respondent. The Reply filed by the Respondent did not disclose any contempt on the part of Respondent. It is for the Applicant to take appropriate steps in accordance with the procedure as indicated by the Respondent. Therefore, the Application is liable to be dismissed.
6. In the result, I.A.No.299 of 2019 in C.P.(IB)No.51/BB/2018 is hereby dismissed. However, this order will not come in the way of both the parties to settle their issue raised in the IA. No order as to costs.



**(ASHUTOSH CHANDRA)**  
**MEMBER TECHNICAL**



**(RAJESWARA RAO VITTANALA)**  
**MEMBER, JUDICIAL**