

**In the National Company Law Tribunal, Jaipur**

**IB-107 (ND)/2017**

**TA No. 48/2018**

**UNDER SECTION 9 OF IBC CODE, 2016**

**In the matter of:**

**M/s Kei Industries Ltd.. ..... Applicant/Petitioners**

**VS.**

**Shipra Infraproject Pvt. Ltd. ....Respondent**

**Order delivered on 30.08.2018**

**Coram: Shri R. Varadharajan, Member (Judicial)**

For Petitioner (s) : Nitesh Shrivastwa, Adv.

For Respondent(s) : None Appeared

**ORDER**

Learned counsel for the Insolvency Resolution Professional (IRP) is present and the represent that in view of no resolution plan having been obtained in relation to the Corporate Debtor, as well as no co-operation of the Corporate Debtor and the suspended director of the Corporate Debtor and taking into consideration 270 days period for resolution has expired, an application under Section 33(2) & 34 of IBC 2016 has been moved seeking for the liquidation of the Corporate Debtor based on recommendation of CoC constituting of the Operational Creditor who has filed the present petition based on which the CIR process was also initiated. It is also represented by learned counsel for the IRP,



that the Company/Corporate Debtor is having only one director Mr. Hari Mohan and despite several directions issued by this Tribunal i.e. NCLT, New Delhi, in the matter co-operation, <sup>the</sup> said suspended director did not disclose details in relation to Corporate Debtor. It is also represented that the said suspended director in view of his non-co-operation as well as non-availability of records of the Corporate Debtor, the IRP has stated there are no assets or funds available with the Corporate Debtor even to <sup>give</sup> the cost of the liquidation for the purpose of liquidation. Learned counsel for the IRP also represented by Dairy No. 3771, an application has also been moved, taking into consideration Section 3-A of the Companies Act 2013, in view of the fact that the company has been functioning with a sole director in violation of statutory provisions of the Companies Act, as a Private Limited Company is required to have minimum of two directors. Perusal of the records furnished namely the master data as maintained by MCA, in relation to Corporate Debtor discloses that <sup>there</sup> are two directors given namely Mr. Hari Mohan and one Mr. Ram Awatar Jogi. Learned counsel for IRP is not in a position to give the date of obtaining the master data of MCA. Taking into consideration the master data this Tribunal is of the considered view that the provisions of Section 3-A Companies Act, 2013 as such cannot be invoked and the learned IRP is directed to obtain the master data as of today of the Corporate Debtor along with last audited balance sheet/financial statement of the Corporate Debtor available with MCA within a period of one week from today, to appraise this Tribunal of the financial position of the Company as well as disclosure made

in relation to the assets of the Corporate Debtor. For the purpose two weeks time is granted to the learned IRP to file the documents as directed above. Further, before seeking for Liquidation/Resolution, IRP's are required in relation to all compliances, file a detailed format and the Bench officer is directed to hand over the specimen format to the learned counsel for IRP for this purpose. Post the matter on 27.09.2018. In the meanwhile a copy of the application filed under Dairy No. 3771 be also communicated by RP to the ROC concerned. Let, ROC file in relation to the Corporate Debtor a status report of Corporate Debtor on or before the next date of hearing, particularly in relation to directors and annual filings.

SD -

**(R. Varadharajan)**  
**Member (Judicial)**