

3. It is worth to reproduce the directions given to the Respondents on the last occasion i.e. on 10.08.2018 vide an Interim Order, relevant paragraph reproduced below:-

- "3. Meanwhile till the disposal of the MA the Respondent Debtor is directed to place on record account of LLP also in the name of R3 i.e. Encyclo Media Global Creative LLP as per MA 608/2018 and the bank account of the Corporate Debtor Encyclo Media Networks Pvt. Ltd. and to place on record the Affidavit that after commencement of CIRP no funds of the Debtor Company have been siphoned.*
- 4. Affidavit should be signed by the Ex-Directors.*
- 5. Also directed to cooperate with the RP by submitting requisite documents."*

4. From the side of the Respondent No.1 Mr. Mukesh Manik, Learned Representative has tried to convey that under the instructions of his Client by making payment of the entire Debt due to the Petitioner; the Respondents are willing to arrive at a settlement with the Petitioners and the time be granted so that the Petition be disposed of as per the terms of the Settlement to be executed between the Parties. He has pleaded that as per the CIRP Regulation 30(A) a Debt can be settled between the Debtor and the Creditor before the calling of "Expression of Interest" ("EoI"). In this case so far the publication has not been made inviting Resolution Plan, therefore, the Debtors be permitted to get the dispute resolved through amicable settlement. He has also pleaded that it is not necessary in this case that before withdrawal of the Petition by the Petitioner an approval of 90% voting share of the Committee of Creditors be obtained. Learned Counsel has vehemently pleaded that since the Debtors were trying to resolve amicably therefore under *bona fide* impression have not complied with the directions.

5. From the side of the Applicants Learned Representative has strongly objected the Prayer of extension of time to get the issue of non-payment of Debt could be resolved in the days to come because sufficient opportunity had already been granted but without any success. The Debtors are not cooperating in any manner, either by submitting the data of the Company or by complying with the directions of this Court. Learned Representative has also informed that serious defaults have been made by the Debtors by not disclosing certain Bank accounts to Resolution Professional. Further, serious mistake has been committed by transferring business of the Company to one LLP. The Resolution Professional had prepared/ constructed a provisional Receipt and Payment

account of the Debtor Company for the period 23.02.2018 to 30.05.2018 according to which Loan to the tune of ₹15,33,826/- is recoverable from Mr. Mukesh Manik. In support my attention was drawn on a Bank Statement to demonstrate the siphoning of the Funds on various dates by Mr. Mukesh Manik ranging from ₹1,50,000/- to ₹2,00,000/- and up to ₹4,00,000/- by regular time to time withdrawals.

6. Heard both the sides at some length. The case records have established that the Petition was first listed for admission on 17.08.2017 and thereafter regularly granted time to both the sides for due compliance. In that sequence, listed on 07.09.2017, 29.09.2017, 08.11.2017, 04.12.2017, 15.12.2017, 02.01.2018 and thereafter finally vide an Order passed on 23.02.2018, the Petition was admitted u/s. 9 against the Corporate Debtor by appointing IRP Mr. Uday V. Shah. As a consequence, the Corporate Insolvency Resolution Process had commenced.

6.1. On commencement of CIRP, the Corporate Debtor through one of the Directors has pleaded before this Court to grant time to resolve the Debt amount and also sought time to submit the accounts to demonstrate the genuineness of the Debtor Company. On account of the fact that the Respondent Debtor had made a request, therefore, time was granted and the case was adjourned. On 10.08.2018 certain directions were given to the Respondent Debtor, but today (i.e. on 12.09.2018) there was no compliance of those directions.

6.2. As a consequence, now I am left with no other recourse but to issue Show-Cause Notice which is hereby given to the Directors of the Respondent Company as to why a punishment should not be awarded for defiance of the Order dated 10.08.2018 as prescribed u/s. 70 read with Section 73 of the Insolvency Code. The defaulters are directed to place on record an Affidavit in their defence if deem fit.

6.3. The Resolution Professional is directed to collect requisite information from the concerned Authorities, viz. RoC, Income Tax Department, Sales Tax Department, etc. so that the Information Memorandum be finalised. If there are Financial Creditors, viz. Banks, the Bankers are directed to give all the information about this Corporate Debtor, mainly the accounts furnished to the Bank on the basis of which Loans have been granted.

6.4. The Resolution Professional is directed to publish the Advertisement to invite Resolution Plan by a particular date. Resolution Plans, if received, be placed before Committee of Creditors for due consideration.

6.5. The Resolution Professional shall visit the Registered Office of the Corporate Debtor or any other Office, if shifted in recent past and collect the entire material including all soft copies of the accounts if maintained on Computer so that the correct financial position and the position of diversion of Funds, as alleged, be ascertained. Non-cooperation from any person shall be considered as a serious offence punishable under the Insolvency & Bankruptcy Code.

7. With these directions the MA is disposed of accordingly.

SD/-

(M.K. SHRAWAT)
Member (Judicial)

Date : 12.09.2018

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