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**IN THE NATIONAL COMPANY LAW TRIBUNAL : NEW DELHI
COURT-III**

IB-623/ND/2018

In the matter of :

JM Kapoor & Co.

...PETITIONER

Vs.

Novex (P) Limited

.. RESPONDENT

SECTION

Under Section 9 of IBC Code, 2016

Order delivered on 26.7.2018

Coram :

R. Varadharajan,

Hon'ble Member (Judicial)

Dr. V.K. Subburaj

Hon'ble Member (Technical)

Novex (P) Limited

For the Petitioner /Op. Creditor : -

For the Respondent/Corporate Debtor : Mr. SN Gautam, Advocate

For the Intervener :

ORDER

The Proprietor of the Company /party is present in person and represents that in compliance to the directions issued by this Tribunal vide Order dated 05.7.2018, an affidavit along with Board Resolution has been duly filed accepting the claim of the Applicant, however, seeking for some time to settle the claim. Perusal of the application shows that in Part-III of the application, the petitioner has named one Mr. Rishi Parkash Vats as proposed IRP for conducting the Resolution Process. To a query whether any consent has been obtained from proposed IRP along with IBBI Certificate, the petitioner points out to page-26, Form-2 as stated to be given under Rule 9 of IBBI (Application to Adjudicating Rules), 2016 been filed along with affidavit and that the Certificate issued by IBBI

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to the said IRP to act as an RP has been enclosed. Perusal of the Form-2 shows that the same has been issued for some other Company and not related to the Corporate Debtor.

The petitioner seeks some time to rectify the defect and take the appropriate consent and to file the same afresh with an affidavit before this Tribunal. Taking into consideration the provisions of Section 9 (5) of IBC, 2016, a week's time is granted to rectify the serious defect/lapse on the part of the petitioner in obtaining the consent totally unrelated to the Corporate Debtor. However, this lapse should be strictly construed as under the provisions of IBC, 2016 Corporate Insolvency Resolution Process is of very serious nature and invite serious consequences upon the Corporate Debtor and neither the petitioner nor the IRP's should treat the same in a casual manner. It has also been highlighted in our Judgment relating to duties of IRP/R.P. whether proposed or acting under M/s. Tekshill Enterprises vs. IAP Company Private Limited.

Taking into consideration the provisions of Section 9 (5) of IBC, 2016, a week's time is granted to rectify this serious defect.

Post the matter on 14.8.2018.

- Sd -

(DR. V.K. SUBBURAJ)
MEMBER (TECHNICAL)

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- Sd -

(R. VARADHARAJAN)
MEMBER (JUDICIAL)

Surjit
26.7.2018

Post the matter on 14.8.2018.

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