

IN THE NATION COMPANY LAW TRIBUNAL : NEW DELHI

COURT-III

IB-22(ND)/2018

IN THE MATTER OF:

Oriental Bank of Commerce

vs

M/s Shekhar Resorts Ltd. & Ors.

SECTION

Under Section 7 IBC, 2016

Coram:

R.VARADHARAJAN,

Hon'ble Member (Judicial)

Shri H. C. Suri,

Hon'ble Member (Technical)

For the Petitioner/Applicant

For the Operational Creditor

For the RP

For the Corporate Debtor

.....PETITIONER

.... RESPONDENT

Order delivered on 27.05.2019

:Mr. Saurabh Jain, Adv. Abhindra, Siddharth, Jain,

: Ms. Tanya Agarwal, Adv.

: Abhishek Anand, Tushar Tyagi, Adv.

: Rakesh Kumar, Hetish Raj Singh, Sahil, Adv.

ORDER

CA No. 248/C-III/ND/2019, CA No. 290/C-III/ND/2019, CA No. 302/C-III/ND/2019, CA No. 327/C-III/ND/2019

This is an application moved by an Operational Creditor aggrieved by the action of the Resolution Professional in not considering the claim which had been filed admittedly beyond the period of 90 days as prescribed in regulation 12(2) of CIRP Regulations. From the averments of the applicant it is seen that since the applicant is located in Uttar Pradesh they were not aware about the paper publication which has been effected in the New Delhi edition where the registered office of the corporate debtor is situated. In the circumstances, learned RP has not accepted the claim filed beyond the prescribed period of 90 days. This Tribunal is of view that genuine claim, if any, as made operational creditor/financial creditor of the corporate debtor should not be reflected based on the time limit prescribed under the Regulation 12 if any bonafide reason is shown for not filing the claim within prescribed time limit. Hence in the interest of justice, this application is allowed and we direct the Resolution

Professional to consider the claim on merits. For the said purpose the applicant is directed to furnish all necessary particulars in relation to the claim within 7 days from today. With the above direction this application stands closed.

CA No. 427/C-III/ND/2019

Learned counsel for RP brings to this notice of this Tribunal that pursuant to the directions dated 13.05.2019 and taking into consideration the time which was granted by this Tribunal for communication of details to the respondents in the said order, the same has been duly furnished and in relation to the same Email dated 14.05.2019 is sought to be relied on, as sent to the respondents by the RP. In relation to said Email it is also brought to the notice of this Tribunal by learned counsel for RP that even after expiry of 240 days in relation to the CIRP initiated by this Tribunal, the keys of the registered office of the corporate debtor has not been provided handed over as of today. However, learned counsel for the respondent represents that till today no request has been made by the learned counsel for RP, as otherwise the keys of the registered office could have been made available. Taking into consideration the said representation as an initial step let the keys of the registered office of the corporate debtor be made available within 48 hours to learned RP. In relation to the other details which has been sought for by virtue of said Email, learned RP represents no details have been furnished to which learned counsel for the respondents vehemently objects and repeatedly makes an assertion that same has been provided to which learned counsel for RP points out that no reply as of today was sent. Under the circumstances an opportunity is granted to the respondents to send a detailed reply in relation to information which has been sought and as to whether the same has been provided or not and if provided the acknowledgement of the RP to the same. The attitude of the respondents in not aiding the CIRP process even after almost 240 days had expired ^{and} the balance period for resolution which is available is only 30 days and because of the non-

Q cooperation of respondents/corporate debtor there is every possibility of the corporate debtor going to liquidation which will not benefit the promoters of the corporate debtor in any way. In the circumstances an opportunity is given to Board of Directors whose powers stands suspended and impleaded as respondents in the application to give all the details as sought for ^{by} the RP without any demur in this regard failing which this Tribunal will be constrained to give appropriate direction for breaking open the lock of the registered office of the corporate debtor and RP to have access on the next date of hearing. Post this application on 03.06.2019.


CA No. 260/C-III/ND/2019, CA No. 261/C-III/ND/2019

Heard in detail in relation to the application. Orders reserved. In relation to both the applications let written submission be filed within 3 days from today.

CA No. 254/C-III/ND/2019

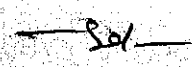
Heard the submissions of learned counsel for RP. None appears for the respondents.

In the circumstances post the application for submission on 03.06.2019 finally.


(H.C. SURI)

MEMBER (TECHNICAL)

Varinder Kumar


(R. VARADHARAJAN)

MEMBER (JUDICIAL)