

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, COURT – II

Item No. 216
(IB)-452(ND)2017

IA/5021/2020, IA-1090/2021, CA-903/2019, CA-1682/2019

IN THE MATTER OF:

Power2sme Pvt. Ltd. ... Applicant/Petitioner

Versus

JV Strips Ltd. & Ors. ... Respondent

Under Section: 9 of IBC, 2016

Order delivered on 17.08.2021

CORAM:

SHRI. ABNI RANJAN KUMAR SINHA
HON'BLE MEMBER (J)

SHRI L. N. GUPTA,
HON'BLE MEMBER (T)

PRESENT:

Dinesh Mohan Sinha, Advocate; Prince Mohan Sinha, PCS for Upaj Buildcom
Adv Shashwat for liquidator
Adv bhuwan jayant for Design o Creations in CA 1682/2019
ADVOCATE GAUTAM SINGHAL AND ADVOCATE RAJAT CHAUDHARY
FOR ICICI BANK LTD

ORDER

IA/5021/2020: By filing this application, the Applicant has prayed for the following reliefs:

- a) Direct the ICICI Bank to take necessary steps for realization of the Secured Assets and accordingly, take the possession of all the vehicles and avoid unnecessary charges; and pay their proportionate share in CIRP/Liquidation cost.
- b) Allow the Liquidator either to invoke Regulation 21A of IBBI (Liquidation Process) Regulations, 2016, and accordingly,

(Sapna)



proceed ahead for sale of assets in accordance with the provision of the Code.

Heard the Ld. Counsel for the Applicant as well as the Respondent/ ICICI Bank and perused the averments made in the Application as well as the reply filed on behalf of the Respondent.

In the course of hearing, the Ld. Counsel for the Respondent shared the mail dated 14th August 2021 and submitted that the Bank has received the mail from the Liquidator in which, inter alia, it is mentioned that *“Moreover, as you are aware of the fact that the ICICI Bank, being a secured creditor, has not relinquished the security interest to the liquidation estate. Accordingly, in order to comply with Section 52 of the Insolvency and Bankruptcy Code, 2016 (“Code”) read with Regulation 37 of IBBI (Liquidation Process) Regulations, 2016 (Liquidation Regulations”), the ICICI Bank, being a secured creditor, shall take custody of the assets contributing towards CIRP/Liquidation Expenses. You may appreciate that we have communicated to ICICI Bank several times in this respect.”*

Ld. Counsel for the Respondent by referring to this email submitted that the Bank is ready to exercise its power as per Section 52 of the IBC but it is the Applicant Liquidator, who has failed to handover the vehicles.

On the other hand, Ld. Counsel for the Liquidator submits that he is ready to handover the vehicle, if the Bank, gives an undertaking that they will pay the CIRP/Liquidation cost and expenses.

In reply, Ld. Counsel for the Respondent Bank submitted that the Bank is ready to give an undertaking and pay the CIRP/Liquidation cost after verification, in accordance with the provision of the law.

Considering the submissions made on behalf of the parties, we hereby direct the ICICI Bank to furnish an undertaking within a week from today to the Liquidator and if such an undertaking is received by the Liquidator, he is directed to handover the vehicles immediately.

With this, the IA 5021/2020 stands disposed off.

(Sapna)



CA-903/2019: Ld. Counsel appearing for the Liquidator submits that despite several notices sent through the post, none appeared for the Respondent and so the Applicant may be permitted to publish the notice in the Newspaper.

Heard. The prayer is allowed. The Applicant is directed to publish the notice in two Newspapers one in Hindi and other in English, circulating within the area, where the Respondent used to reside or carry on their business.

List the matter on 13th September 2021.

CA-1682/2021: Ld. Counsel appearing for the Liquidator submits that the amended Memo of Parties has already been filed but the same is not reflected on the DMS. Therefore, the Liquidator is directed to file the same and also serve the copy of the same to the Respondents, who have appeared.

Mr. Jai Bhagwan Bindal, the Ex-Promoter of the Corporate Debtor has appeared in person. The Liquidator is directed to serve the copy of the amended Memo of Parties to him also .

List the matter on 13th September 2021.

IA-1090/2021- List the matter on 13th September 2021.



(L. N. GUPTA)
MEMBER (T)



(ABNI RANJAN KUMAR SINHA)
MEMBER (J)