

**In the National Company Law Tribunal,
Kolkata Bench, Kolkata**

CA No.418/KB/2017

And

Company Application No.238/KB/2017

In

CP No.181/KB/2017

In the matter of:

Radico Khaitan Ltd.

.....Operational Creditor

And

Mr. Arun Kumar Khandelia

.....Interim Resolution Professional

And

Ajudhia Distributors Pvt. Ltd.

....Corporate Debtor

Order Delivered on 15th December 2017

Coram:

V. P. Singh, Member (J)

Jinan K.R., Member (J)

For the R.P. : Mr. Arun Kumar Khandelia, Resolution Professional

For Operational Creditor : 1. Mr. Arnab Dutta, Advocate
2. Ms. Banoshree Mukherjee, Advocate
3. Mr. Prajna Bhattachaya, Advocate

ORDER

Per Jinan K.R., Member (J)

This CP was filed by the operational creditor viz. Radico Khaitan Ltd. u/s 9 of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to I & B Code) praying for initiation of corporate insolvency resolution process against the corporate debtor viz. Ajudhia Distributors Pvt. Ltd.

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2. The above petition was admitted by this Tribunal vide order dated 1/5/2017 and Mr. Arun Kumar Khandelia has been appointed as Interim Resolution Professional. From the inception of the proceedings initiated before this Tribunal, corporate debtor did not turn up before this Tribunal nor attended meeting convened by the resolution professional for arriving at a resolution plan. Because of the non-cooperation on the side of the corporate debtor, the resolution professional filed an application CA/(IB) No.238/KB/2017 under Sec.19(2) and 19(3) of the I & B Code for issuance of direction to the corporate debtor to provide the requisite information to the resolution professional in discharging his duties.

3. Despite directions issued to the corporate debtor he did not attend the meeting convened by the Resolution Professional so also failed to file any materials or data as directed to furnish to the resolution professional by the corporate debtor.

4. In view of non-cooperation on the side of the corporate debtor, the Ld. R.P. filed another application as CA No.418/2017 under Sec.70 of the I & B Code praying for taking action against the corporate debtor for his failure to co-operate with the resolution professional and for his failure in providing the requisite information to the applicant for discharging his duties as resolution professional and for enabling him to complete resolution plan within the stipulated period.

5. Vide order dated 9/10/2017 this Tribunal issued a show cause notice to the Director Mr. Mohit Korpall of the corporate debtor as well as to the corporate debtor directing them to show cause why not punishment under Sec.70 of the I & B Code is to be imposed on them.

6. Despite service of the show cause notice and direction the corporate debtor did not turn up and no explanation forthcoming from the corporate debtor as well as from the Director.
7. In view of the non-cooperation of the Director and in the absence of giving explanation to the show cause notice issued to them invoking this Tribunal's power under Sec.70 of the I & B Code, imposed penalty on Director, Mr. Mohit Korpall directing him to pay the penalty within 15 days from the date of order i.e. 8/11/2017 failing which the amount will be recovered from the corporate debtor in accordance with law.
8. Despite the order of imposition of penalty, the Director or the corporate debtor did not pay the penalty and not turn up before this Tribunal or before the Ld. R.P. and thereby vide separate order we have issued an order of liquidation of the corporate debtor under under Sec.33(1) (a) of the I & B Code.
9. The Director Mr. Mohit Korpall being found deliberately avoiding the directions of this Tribunal and its orders and not paid the penalty imposed on him, this Tribunal is empowered to recover the penalty from the Director Mr. Mohit Korpall in person under Sec.424 (3) of the Companies Act, 2013. The corporate debtor is residing in Burdwan having its Office at NH-2, Bankipara (Ghagar Danga), Domohani Road, Mouza Asansol, P.O. Kalla, Asansol, Burdwan, Phaving Pin Code - 713 340.
10. In view of the above said discussion we hereby order that Rs.3 lakh is liable to be recovered from the Director of the corporate debtor Mr. Mohit Korpall.

Registry is directed to send copy of the order as per Order 21 Rule 6 of the Code of Civil Procedure to the District Court Burdwan within the local limits on whose jurisdiction the Director is residing for execution of the order and for realization of Rs.3 lakh.

11. Communicate a copy of this order to the operational creditor and to the liquidator by email.
12. Urgent photostat certified copies of this order, if applied for, be supplied to parties upon compliance of all requisite formalities.

List the matter on 2/1/2018.


V. P. Singh,
Member (J)


Jinan K.R.,
Member (J)

Signed on 15th December 2017