

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

T.C.P No. 615/(MAH)/2017
CA No.

CORAM:

Present: SHRI M.K. SHRAWAT
MEMBER (J)

SHRI BHASKARA PANTULA MOHAN
MEMBER (J)

ATTENDENCE-CUM-ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 03.10.2017

NAME OF THE PARTIES: National Commercial Corporation
V/s.
Apex Engineering Solution & Services Pvt.Ltd.

SECTION OF THE COMPANIES ACT: I & BP Code 2016.

S. No.	NAME	DESIGNATION	SIGNATURE
34	Vishakhi Bhatia	Adv for the Operational Creditor	<i>[Signature]</i>

ORDER
TCP 615/I&BC/NCLT/MB/MAH/2017

1. A mention has been made for substitution of the Insolvency Professional. In this regard it is noticed that the Petition of the Operational Creditor was admitted vide an order dated 19.07.2017 in respect of an Operational Debt of ₹11,45,788/-. One Mr. Jitesh Gupta was appointed as an Interim Resolution Professional.
2. Placed on record Minutes of First Meeting of Committee of Creditors held on 16.09.2017 under the Chairmanship of IRP Mr. Jitesh Gupta. The Representative of the Financial Creditor i.e. Dombivali Nagari Sahakari Bank Limited, Nasik Branch has also attended the Meeting. One of the Directors of the Corporate Debtor was present. One of the Representatives of the

(Contd....2.)

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Operational Creditor has also attended the said Meeting. The Interim Resolution Professional had appointed two Registered Valuers. Importantly, one of the agenda was to appoint IRP as the Resolution Professional and to approve his remuneration. The relevant portion is reproduced below:-

"10. To appoint IRP as Resolution Professional and to fix the remuneration and expenses, which shall constitute Corporate Insolvency Resolution Process costs or to replace IRP by another Resolution Professional as per section 22(2) of IBC, 2016. Interim Resolution Professional being eligible offers himself for the appointment as such Resolution Professional.

The Committee of Creditors had discussed the requirement of appointing Resolution professional who shall conduct the entire Corporate Insolvency process and manage the operations of the corporate debtor during the Corporate Insolvency Resolution Process period and in this regard Interim Resolution Professional, Mr. Jitesh Gupta informed the committee that his professional fees for continuing as Resolution Professional would be ₹2,50,000/- exclusive of GST, Statutory and other out of pocket expenses.

The Committee discussed the matter and the sole member of the committee abstains from appointing the Interim Resolution Professional as a Resolution Professional and recommending the name of the Proposed Resolution Professional, therefore, the matter ended with no resolution."

3. Now the Petitioner has moved an Application for substitution of the IRP. The Petitioner has also informed that the Committee has refused to approve the Remuneration. Under the circumstances we are of the view that the IRP who has initiated the Insolvency Process is entitled for his professional due. We therefore direct that the Committee must approve an amount of ₹1,75,000/- towards Professional Fees of Mr. Jitesh Gupta, IRP. Expenses incurred, if any, shall be reimbursed separately.

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4. Since the Petitioner and the Committee of Creditors have not suggested or proposed any substituted name, therefore, as per the provisions of the Code the Registry is directed to refer this matter to IBBI, New Delhi for appointment of Insolvency Professional. Till the appointment of the substituted Insolvency Professional, the existing IRP Mr. Jitesh Gupta shall take all necessary steps as prescribed under the provisions of the Insolvency Code so that the process of Insolvency should not get adversely affected. This Praecipe is allowed as directed above.

Sd/-

BHASKARA PANTULA MOHAN
Member (Judicial)

Date : 03.10.2017

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Sd/-

M.K. SHRAWAT
Member (Judicial)