

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
PRINCIPAL BENCH

C.P. No. (IB)-48(PB)/2017

IN THE MATTER OF:

Agarwal Marketing and Services (Energy) Pvt. Ltd.Petitioner
v.
M/s. Max Tech Oil & Gas Services Pvt. Ltd.Respondent

SECTION : UNDER SECTION 9 of Insolvency and Bankruptcy Code, 2016

Order delivered on 18.07.2017

Coram:

CHIEF JUSTICE M.M. KUMAR
Hon'ble President

Deepa Krishan
Hon'ble Member (T)

For the Petitioner(s) : Shri Kewal Singh Ahuja, Advocate

ORDER

This is an application filed on behalf of Insolvency Professional with a prayer for issuance of direction to earlier statutory auditor namely M/s Vijay Prakash Gupta & Associates, E-2/16, White House, IIIrd Floor, Ansari Road, Darya Ganj, New Delhi-110002 to co-operate with the Insolvency Professional and to conduct the audit of accounts of the Corporate Debtor for the financial year ended on 31.03.2015, 31.03.2016 & 31.03.2017 on consolidated fee proposed by the Committee of Creditors or to direct him to provide no objection certificate. In the alternative, a further prayer has been made that the requirement of compliance of Section 140 of the Companies Act, 2013 in exercise of powers

under Section 60 (5) (c) read with Section 238 of the Insolvency and Bankruptcy Code, 2016 and permit the Insolvency Professional to get the audit conducted from any other Chartered Accountant to be appointed by the Committee of Creditors.

Reply to the application has been filed, in para 3 (c) the stand taken by the auditors is that they have no objection to appointment of any other Chartered Accountant as statutory auditor of the Corporate debtor company for conducting its audit in accordance with the guidelines and ethical standards laid down by the Institute of Chartered Accountants of India with a rider to recover the due professional fee.

We have heard learned counsel for the parties.

According to the learned counsel for the applicant the application be disposed of keeping in view the stand taken by the statutory auditor furnishing no objection for appointment of any other chartered accountant as statutory auditor of the Corporate Debtor.

As a sequel to the above discussion and keeping in view the statement made by the counsel for the Insolvency Professional, we dispose of the application and permit the Insolvency Professional to appoint any other Chartered Accountant as statutory auditor of the Corporate Debtor for conducting the audit of the Corporate Debtor company in accordance with law.

We wish to make it clear that under Section 19 of IBC there is an obligation cast

on all personnel of the Corporate Debtor, its promoters or any other person associated with the Management of the Corporate Debtor to extend all assistance and cooperation to the interim resolution professional. In the present case, the application was admitted on 04.07.2017 and unnecessary delay has been caused by the impediment created by the auditors which is not appreciable. Therefore, all those who are erstwhile associate, personnel of Corporate Debtor, its promoters shall keep in view the statutory provision and their duty to cooperate with the Insolvency Professional failing which some strict action may be necessitated in future.

With the aforesaid observation, the application is disposed of.


(CHIEF JUSTICE M.M. KUMAR)
PRESIDENT


(DEEPA KRISHAN)
(MEMBER TECHNICAL)

18.07.2017

Vineet