

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI

PRINCIPAL BENCH

(IB)-15(PB)/2017

IN THE MATTER OF:

Clutch Auto Ltd.

.....Petitioner

SECTION : UNDER SECTION 9 OF IBC, 2016

Order delivered on 12.09.2017

Coram:

CHIEF JUSTICE M.M. KUMAR  
Hon'ble President

Deepa Krishan  
Hon'ble Member (T)

For the Petitioner(s) : Mr. Karan Gandhi, Advocate

For the Respondent(s) : Mr. Sumesh Dhawan, Advocate for Resolution Professional

ORDER

The Insolvency Professional has filed present application for issuance of various directions which are given in the prayer clause and read as under:-

- “(a) issue necessary directions to the ICICI Bank, Lajpat Nagar branch and DCB Bank, Barakhamba branch directing them to change the authorized signatory of the Corporate Debtor to that of the Applicant in order to enable the Resolution Professional to manage the affairs of the Corporate Debtor;

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- (b) issue necessary directions to the key person i.e. Mr. V.K. Mehta (CMD), Mr. Pramod Kumar (Marketing Manager), Mr. Manish Rai (Company Secretary) and Mr. Rajesh Kumar (Finance Manager) of the Corporate Debtor to extend full co-operation, and provide all necessary information as and when required by the Applicant, in order for the Applicant to fulfil all his duties and responsibilities as a Resolution Professional;
- (c) issue necessary directions to the SHO/SP of the P.S. Sector 31, Faridabad, Haryana to extend assistance and co-operation to the Applicant in getting vacant and peaceful possession of the land of Corporate Debtor situated at Plot Number 1, Sector-27D, Mathura Road, Faridabad;
- (d) issue necessary directions to the SHO/ SP of the P.S. Chupanki, Dist. Alwar, Rajasthan to extend security to the Applicant to enable him to visit the unit situated at SP2-173/174, RIICO Industrial Area, Kaharani, Bhiwadi, District Alwar, Rajasthan – 301019, and carry on the affairs of the Company

without any threat or fear to life and limb for himself and the Team RP”

Notice of the application was issued. The erstwhile Management has filed its reply and has claimed that necessary information has been furnished to the Insolvency Resolution. However, learned counsel for the Insolvency Professional states that the possession of the Unit situated at SP2-173/174, RIICO Industrial Area, Kaharani, Bhiwadi, District Alwar, Rajasthan – 301019 is not being handed over to the Insolvency Professional and there are threats to him. Likewise, the key person namely Mr. V.K. Mehta (CMD), Mr. Pramod Kumar (Marketing Manager), Mr. Manish Rai (Company Secretary) and Mr. Rajesh Kumar (Finance Manager) of the Corporate Debtor are not extending the full cooperation and providing all necessary cooperation required by the Insolvency Resolution Professional in order to fulfil all his duties and responsibilities.

Having heard the learned counsel, we notice the provisions of Section 19 of the Code, 2016 where all the personnels of the Corporate Debtor, its promoters or any other person associated with the erstwhile Management of the Corporate Debtor is put under obligation to extend all assistance and co-operation to the

Interim Resolution Professional as may be required by him in managing the affairs of the Corporate Debtor. In case such cooperation is not forthcoming the Insolvency Professional under sub-section 2 of Section 19 has been given the right to file appropriate application like the one in hand before the Adjudicating Authority i.e. NCLT. Accordingly, the present application has been filed.

In view of the above we direct that the ICICI Bank, Lajpat Nagar Branch, New Delhi and the DBC Bank, Barakhamba Road Branch, New Delhi shall substitute the authorized signatory with the Insolvency Professional in respect of the bank accounts therein concerning the Corporate Debtor to enable him to manage the affairs of the Corporate Debtor. All the personnels of the Corporate Debtor, its promoters or any other person associated with the management including Mr. V.K. Mehta (CMD), Mr. Pramod Kumar (Marketing Manager), Mr. Manish Rai (Company Secretary) and Mr. Rajesh Kumar (Finance Manager) of the Corporate Debtor shall extend complete cooperation and provide full information as required by the Insolvency Professional so that he may perform his duties which are cast on him by Sections 17 & 18 of the Code 2016.

We further direct the Superintendent of Police and the Station House Officer of Police Station, Sector-31, Faridabad, Haryana to extend police assistance to the Insolvency Professional in ensuring to obtain vacant and peaceful possession of land of the Corporate Debtor named and styled as Plot No. 1, Sector-27D, Mathura Road, Faridabad, Haryana.

We also direct the Superintendent of Police of District Alwar, Rajasthan to extend security to the Insolvency Professional so that he may visit the unit situated at SP2-173/174, RIICO Industrial Area, Kaharani, Bhiwadi, District Alwar, Rajasthan – 301019 and may carry on the affairs of the company without any fear threat to his own life or to that of his associates.

In case the erstwhile management fails to co-operate then the Insolvency Professional would be within his rights to substitute them by appointing his own officials so that he may feel free to perform his functions in order to implement the provisions of Section 17, 18, 19 & 25 of the Code, 2016. If any lapse is committed by any of the aforesaid persons then appropriate application be filed so that we may initiate proper proceedings to bring them to the books.

The application stands disposed of in the above terms.

—Sd—

(CHIEF JUSTICE M.M. KUMAR)  
PRESIDENT

—Sd—

(DEEPA KRISHAN)  
(MEMBER TECHNICAL)

12.09.2017  
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