

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
CHANDIGARH BENCH, CHANDIGARH**

**CP (IB) NO. 13/Chd/Hry/2017 and  
CP (IB) NO.14/Chd/Hry/2017**

**Date of order: 09.05.2017**

**Coram: HON'BLE MR. JUSTICE R.P. NAGRATH, MEMBER(JUDICIAL)  
HON'BLE MS. DEEPA KRISHAN, MEMBER(TECHNICAL)**

In the matter of:

**CP (IB) NO. 13/Chd/Hry/2017**

M/s Surbhi Body Products Pvt. Ltd.	..Applicant 1
Versus	
M/s Meyer Apparel Ltd.	...Respondent.

AND

**CP (IB) NO.14/Chd/Hry/2017**

M/s Godolo and Godolo Exports Pvt. Ltd.	.. Applicant 2
Versus	
M/s Meyer Apparel Ltd.	.. Respondent.

Present: Mr. Krishan M. Vohra, Advocate for Ms. Isha Aggarwal, Advocate for applicants.  
Mr. Atul V. Sood and Mr. Vikas Garg, Advocates for respondent.

**COMMON ORDER**

**R.P. NAGRATH J., MEMBER (JUDICIAL) (ORAL) :**

These petitions were admitted by this Tribunal by a common order passed on 07.04.2017. Since the Insolvency Resolution Professional was not named by the Petitioner/Operational Creditor, reference was made by this Tribunal to IBBI for recommending the Insolvency Resolution Professional. The IBBI recommended the name of Mr. Alok Yadav IBBI/IPA-002/IP-00194/2016-17/1922 as IRP along with his consent and declaration. The order of his appointment was passed by this Tribunal on 24.04.2017. However, the



nominated IRP withdrew his consent because of the circumstances explained by him in his email. Thereupon, we passed the following order on 26.04.2017:-

*"Learned counsel for Applicants submits that the Insolvency Resolution Professional appointed by the Tribunal on the recommendation of Insolvency and Bankruptcy Board of India (IBBI) has recused himself for taking the responsibilities. His email sent to IBBI in this regard has also been forwarded to this Tribunal. It is disclosed that Mr. Alok Yadav, Resolution Professional had appeared in a matter before the Hon'ble Supreme Court in a customs classification case on behalf of Corporate Debtor and this matter is still with him for appearance for regular hearing. We take an exception to such recusal now after having consented earlier and giving a declaration before the IBBI.*

*There is no other alternative except to make fresh request to IBBI to send recommendation of another Insolvency Resolution Professional along with the requisite Form by taking note of the above observations made by us. Let the request be sent to IBBI in terms of sub-sections (3) & (4) of Section 16 of the 'Code'.*

*List the matter on 09.05.2017 for awaiting recommendations".*

2. Accordingly, IBBI has recommended Mr Arun Jain, IP Regn. No.IBBI/IPA-001/IP-00142/2016-17/1791, Villa No.34, Block No.4, 2<sup>nd</sup> Floor, Eros Garden, Charmwood Village, Faridabad-121009, with his consent and declaration in the prescribed format. The fee of the IRP has been fixed at ₹1,00,000/- (Rupees one lac only) per month (negotiable) plus out of pocket expenses on actual basis.

3. Learned counsel for the respondent, however, submitted that the IRP has to be appointed within 14 days from the insolvency commencement which has expired long back and the matter may be deferred till the extension is granted by the Hon'ble President, NCLT, New Delhi.

4. Having heard the learned counsel for the respondent, we are of the view that the cause of delay is not on the part of the Tribunal but for the circumstances explained above for which we passed the detailed order dated 24.04.2017, as quoted above. Further the instant petition having been admitted the Tribunal does not become functus officio. So there is no alternative except in appointing afresh the IRP as recommended by IBBI to complete the Resolution Process, which cannot be left as an unfinished task.

5. In view of the above, we issue the following directions:-

(i) Appoint Mr. Arun Jain bearing IP Regn. No. IBBI/IPA-001/IP-00142/2016-17/1791, resident of Villa No.34, Block No.4, 2<sup>nd</sup> Floor, Eros Garden, Charmwood Village, Faridabad-121009, email: [arjain1966@gmail.com](mailto:arjain1966@gmail.com), Mobile No. 9711212000 as Interim Resolution Professional and his appointment shall take effect from the date he is communicated this order. It shall be the responsibility of the petitioners to get certified copy of this order forthwith and hand over copy thereof to the IRP aforesaid along with copy of the order dated 07.4.2017 personally or by deputing special messenger and also by email.

(ii) The term of appointment of Mr.Arun Jain shall be for a period of 30 days from the date of his deemed appointment as Interim Resolution Professional or as may be determined by the committee of creditors.

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(iii) In terms of Section 17 of 'the Code', from the date of his appointment, the powers of the Board of Directors shall stand suspended and the management of the affairs shall vest with the Interim Resolution Professional and the officers and the managers of the 'Corporate Debtor' shall report to the Interim Resolution Professional, who shall be enjoined to exercise all the powers as are vested with Interim Resolution Professional and strictly perform all the duties as are enjoined on the Interim Resolution Professional under Section 18 and other relevant provisions of 'the Code', including taking control and custody of the assets over which the 'Corporate Debtor' has ownership rights recorded in the balance sheet of the 'Corporate Debtor' etc. as provided in Section 18 (1) (f) of 'the Code' The Interim Resolution Professional is directed to prepare a complete list of inventory of assets of the 'Corporate Debtor'.

(iv) The Interim Resolution Professional shall strictly act in accordance with the 'Code', all the rules framed thereunder by the Board or the Central Government and in accordance with the 'Code' of Conduct governing his profession and as an Insolvency Professional with high standards of ethics and moral.

(v) The Interim Resolution Professional shall endeavour to constitute the Committee of Creditors at the earliest but not later than three weeks from the date of this order. It is hereby directed that the 'Corporate Debtor', its promoters, personnel and the persons associated with the management shall extend all

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cooperation to the Interim Resolution Professional in managing the affairs of the 'Corporate Debtor' as a going concern and extend all cooperation in accessing books and records as well as assets of the 'Corporate Debtor'.

(vi) The Interim Resolution Professional shall cause a public announcement within three days from the date of his appointment as contemplated under Regulation 6 of the Insolvency and Bankruptcy Board of India ( Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the initiation of the Corporate Insolvency Resolution Process in terms of Section 13 (1) (b) of the 'Code' read with Section 15 calling for the submission of claims against 'Corporate Debtor'.

6. It is further directed that the Insolvency Resolution Professional shall positively file a report of events before this Tribunal every 10 days in relation to the 'Corporate Debtor'.

7. Copy of this order be supplied to the counsel for the parties forthwith. Copy of this order along with copy of earlier order 07.04.2017 be also sent to Mr. Arun Jain, IRP by email. A copy of this order be attached with the connected CP(IB)No.14/Chd/Hry/2017.



(Deepa Krishan)  
Member (Technical)



(Justice R.P. Nagrath)  
Member (Judicial)

May 09, 2017  
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