

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

**IA No. 35/2020
In
CP (IB) No. 234/Chd/Hry/2018
(Admitted Matter)**

**Under Section 60(5) of the
Insolvency and Bankruptcy Code,
2016 read with Rule 11 of NCLT
Rules, 2016**

In the matter of:-

Bhuleshwar Steel and Alloys Pvt. Ltd.	...Petitioner-Operational Creditor
Vs.	
Empathy Infra & Engineering Pvt. Ltd.	...Respondent-Corporate Debtor

And in the CA No. 35/2020:-

Amit Jain	...Applicant
Vs.	
Bhuleshwar Steel and Alloys Private Limited	...Respondent

Present: Mr. Sanjay Bhatt, Advocate for the applicant-IRP.
None for the respondent-operational creditor.

CA No. 35/2020

In pursuance of the notice issued on 17.01.2020, in the instant CA No. 35/2020, the petitioner has taken out the notice on the sole respondent-operational creditor, at whose instance, CP was admitted against the corporate debtor and accordingly, has filed an affidavit of service vide Diary No. 1427 dated 20.02.2020. The same is taken on record. In spite of service of notice, there is no representation for the sole respondent-operational creditor.

2. The instant CA No. 35/2020 is filed by the IRP of the corporate debtor i.e. M/s Empathy Infra & Engineering Pvt. Ltd. under Section 60(5) of the Code seeking his replacement and for payment of his fee and other expenses for the reasons mentioned in CA.

3. It is stated that the applicant-IRP is a partner in KPMG and after his appointment and after issuance of public announcement, he came to know that HDFC Bank is one of the financial creditor and since the said HDFC Bank is an audit client of KPMG, the principal firm where the applicant is a partner, he will have a conflict of interest and accordingly, he filed the instant CA seeking discharge of him by appointing another IRP in his place.

4. In the circumstances, the applicant is discharged from the duties of IRP of the respondent-corporate debtor i.e. M/s Empathy Infra & Engineering Pvt. Ltd. in CP (IB) No. 234/Chd/Hry/2018 w.e.f. the date of taking charge of the newly appointed IRP in his place. He shall handover all the records of the corporate debtor to the said newly appointed IRP.

5. A letter bearing File No. 25/02/2020-NCLT dated 07.01.2020 has been received from the National Company Law Tribunal, New Delhi forwarding therewith a copy of letter No.IBBI/IP/EMP/2019/01 dated 31.12.2019 along with the guidelines and the panel of resolution professionals approved for NCLT, Chandigarh Bench for appointment as IRP or Liquidator. The panel is valid for six months from 01.01.2020 to 30.06.2020. We select Mr. Pardeep Kumar Lakhani appearing at Serial No. 10 of the panel to be appointed as Interim Resolution Professional.

6. The Law Research Associate of this Tribunal has checked the credentials of Mr. Pardeep Kumar Lakhani and there is nothing adverse against him.

7. In view of the above, we appoint Mr. Pardeep Kumar Lakhani, Registration No. IBBI/IPA-001/IP-P00541/2017-2018/10966, E-mail: pradeep.lakhani1967@gmail.com as the Interim Resolution Professional in CP (IB) No. 234/Chd/Hry/2018 in respect of the corporate debtor Empathy Infra & Engineering Pvt. Ltd. and he shall take charge from the applicant immediately.

8. In the circumstances, and as agreed by the learned counsel appearing for the IRP an amount of ₹50,000/- per month is fixed towards the fees of the IRP alongwith the expenses towards the public announcement and the legal costs incurred by the IRP. The operational creditor shall pay the said amount to the IRP within four weeks and the same be claimed from the COC after its constitution by the newly appointed IRP. Accordingly, the CA No. 35/2020 is disposed of.

Copy of this order shall be sent to the applicant, newly appointed IRP and the operational creditor by the Registry.

Sd/-

(Ajay Kumar Vatsavayi)
Member (Judicial)

Sd/-

(Pradeep R. Sethi)
Member (Technical)

February 24, 2020
Yashpal