

IN THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.6 – IA/248(MP)2023
in
CP(IB)/22(MP)2021

Proceedings under Section 10 IBC

IN THE MATTER OF:

Shirani Automotive Pvt Ltd

.....Applicant

Order delivered on 25/08/2023

Coram:

P. Mohan Raj, Hon'ble Member(J)
Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant : Ld. Adv. Mr. Rohit Dubey (Physical) a.w.
Ld. Adv. Mr. Sandeep Pandey (Physical) &
Ld. PCS Mr. Sahive Alam Khan (Physical)

For the Respondent :

ORDER

IA/248(MP)2023

This application is filed by the Liquidator under Section 60(5) of the IBC, 2016 r.w. Rules 11 & 13 of the NCLT Rules, 2016 seeking necessary/urgent directions against the Respondent.

We have heard the learned counsel for the Liquidator.

It is submitted that the Regional Provident Fund Commissioner-II, Indore, *vide* his office order dated 14.08.2023, has issued a direction to the Liquidator to make a payment of Rs. 1,37,05,685/- within 15 days towards the provident fund payable by the Corporate Debtor *viz.*, Shirani Automotive Pvt Ltd.

Learned counsel for the Liquidator submits that in the context, they had already allowed inspection and inquiry to the Officers of the Provident Fund Department and following that, they had issued a demand for payment of Rs. 3,98,24,330/-.

It is submitted that the Liquidator has already advised the Provident Fund Department to file the claim but so far, no claim has been filed.

Learned counsel for the Liquidator submits that the Liquidator will have to examine the claim as per the relevant Regulations under the IBC before taking any decision to part with the fund towards the Provident Fund out of liquidation state. However, instead of filing the claim, the Provident Fund Department has issued a direction for payment, as aforesaid *vide* letter dated 14.08.2023, and following that, by way of an e-mail dated 22.08.2023 under Section 14B of P.F. Act, they are also proceeding to take further action.

After hearing the learned counsel for the Liquidator, we are of the view that the notice is to be issued to the Respondent/Regional Provident Fund Commissioner-II, Indore.

We direct the Applicant/Liquidator to serve a copy of the application along with this order to the Regional Provident Fund Commissioner-II, Indore, who in turn, is expected to file their say/reply, if any, within the next two weeks.

This is the moratorium period as per Section 14 of the IBC, 2016. Therefore, in view of the provisions of Section 14 of the IBC, 2016, the Regional Provident Fund Commissioner-II, Indore shall not take any coercive action during this moratorium period against the Liquidator until any further orders.

With these observations, list the matter for further consideration on **20.10.2023**.

Sd/-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

A. Bhaduria

Sd/-

P. MOHAN RAJ
MEMBER (JUDICIAL)