

**NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH**

(IB)-447(ND)/2017

**CORAM:**

**PRESENT: MS. DEEPA KRISHAN**  
**HON'BLE MEMBER(T)**

**MS. INA MALHOTRA**  
**HON'BLE MEMBER (J)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING BEFORE NEW  
DELHI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON  
30.05.2018**

**NAME OF THE COMPANY: M/s Seth Thakurdas Khinvraj Rathi Vs. M/s  
Cals Refineries Ltd.**

**SECTION OF THE COMPANIES ACT: 9 of IBC, 2016**

<b>S.NO.</b>	<b>NAME</b>	<b>DESIGNATION</b>	<b>REPRESENTATION</b>	<b>SIGNATURE</b>
	For the Petitioner:	Counsel for the Petitioner		
	For the Respondent:	Mr. Rakesh Kumar Jain, RP Ms. Kishore M. Gajaria and Ms. Jyoti Dutt, Advocates		

**ORDER**

It is submitted that an amount of Rs. 6 lakhs towards the expenses involved in the Resolution Process has been contributed by the members of the COC. The same was deposited in the account of the Corporate Debtor. Since there is no mandate to the Bank for the account to be operated by the RP, the amount cannot be withdrawn. It is therefore directed that Axis Bank, 29CC Basant Lok Complex, Vasant Vihar, New Delhi having A/c. No. 911020018142540 shall release the sum of Rs. 5 lakhs at this stage by way

of draft to the RP, Shri Mr. Rakesh Kumar Jain as reimbursement of his professional fees and expenses.

It is made abundantly clear that the amount contributed towards Resolution Process by the COC will cover his fees for the entire Resolution Plan and expenses made till date. Further unforeseen expenses may be considered and borne by the COC.

There is a deadlock with respect to the decision taken by the COC. While the applicant's claim is to the extent of 59% and they pray for extension of the resolution period by another 90 days, the other two claimants prefer liquidation proceedings to commence.

It is surprising to note that the liquidation value of the Corporate Debtor is only to the tune of RS. 2.3 lakhs, which would be distributed pro-rata to various claimants. In view of the certain submission made by the applicant, it is considered expedient to await a possible return of 92 million US \$ in favour of the Corporate Debtor. The period of resolution is extended till the total period of 270 days. The period of pendency of this application shall be excluded i.e. from 16<sup>th</sup> May, 2018 till today. This would be in the best interest of the parties and other claimants.

Another prayer has been made by the applicant for replacement of the RP by the earlier RP. Equally eager is the RP to be relieved, perhaps on account of dissatisfaction of his remuneration. There is no cogent explanation justifying his removal at this stage. The Bench does not consider that appointing another RP or relieving the present one at the mere asking of the parties would be in the best interest of working out the Resolution Plan. The prayer for replacement or relieving the RP is rejected. Mr. Rakesh Kumar Jain is directed to continue till the end of the proceedings.

CA 183/2018 stands disposed off.

-s-d-

**(Deepa Krishan)**  
**Member (T)**

-s-d-

**(Ina Malhotra)**  
**Member (J)**