



Sl. No. 3

**NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI BENCH  
(Virtual Hearing)**

**PRESENT: SHRI RAJEEV BHARDWAJ – MEMBER (JUDICIAL)  
: SHRI SANJAY PURI – MEMBER (TECHNICAL)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 20.12.2024 AT 11:00 A.M.**

TC/CP. Nos.	IA No.	Present stage of the case	Section/ Rule	Name of Parties
CP(1B)/51/9/AMR/2021	Main Case Admitted on 28.11.2022	Liquidation approved on 20.12.2024	9 of IBC	Quality Steel and Wire Products Vs Vantage Machine Tools Pvt Ltd
	IA(IBC)/419/2024	For pronouncement of orders	U/s 33 R/w Sec 60(5) of IBC and NCLT Rules	M/s Canara Bank and Mr.Immaneni Eswara Rao, RP and 3 Ors
	Inv. P(IBC)/5/2024 in IA(IBC)(LIQ)/1/2024		U/s. 60(5) of IBC & Rule 32 & 11 of NCLT Rules	Ms. Nandamuri Meenalatha & Anr. Vs. Mr. Immaneni Eswara Rao, RP
	IA(IBC)/215/2024 in IA (IBC)/142/2023		U/Sec 60 (5) of IBC & Rule 11 & 49 of NCLT Rules,	Nandamuri Meena Latha & Potluru Mohan Murali Krishna Vs Mr.Immaneni Eswara Rao, RP
	IA(IBC)(Liq.)/1/2024		U/Sec 33 R/w Sec 60(5) of IBC	Mr.Immaneni Eswara Rao, RP of M/s Vantage Machine Tools Pvt Ltd
	IA(IBC)/11/2024		U/s 60(5) of IBCR/w 36A & 36B of IBBI Reg. & Rule 11 of NCLT Rules,	Smt.Nandamuri Meena Latha & Sri.Potluru Mohana Murali Krishna (Suspended Directors) Vs Sri.Immaneni Eswara Rao , RP & Members of Committee of Creditor
	IA(IBC)/231/2023		60(5) of IBC	Canara Bank (CoC) Vs. M/s Qwality Steels and Wire Products & 3 Ors.
	IA(IBC)/142/2023		U/s 19 of IBC, 2016 r/w Rule 11 of NCLT Rules.	Mr. Immaneni Eswara Rao Vs. Nandamuri Meenalatha & 5 Others.

**ORDER**

**IA(IBC)/419/2024:**

Orders pronounced. Accordingly, IA(IBC)/419/2024 is allowed, disposed of, and recorded vide separate sheets.

**Inv. P(IBC)/5/2024 in IA(IBC)(LIO)/1/2024:**

Orders pronounced. Accordingly, Inv.P(IBC)/5/2024 is dismissed, disposed of, and recorded vide separate sheets.

**IA(IBC)/215/2024 in IA (IBC)/142/2023:**

Orders pronounced. Accordingly, IA(IBC)/215/2024 in IA (IBC)/142/2023 is dismissed, disposed of and recorded vide separate sheets.

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**IA(IBC)(Liq.)/1/2024:**

Orders pronounced. Accordingly, IA(IBC)(Liq.)/1/2024 is allowed, disposed of, and recorded vide separate sheets.

**IA(IBC)/11/2024:**

Orders pronounced. Accordingly, IA(IBC)/11/2024 is dismissed, disposed of, and recorded vide separate sheets.

**IA(IBC)/231/2023:**

Orders pronounced. Accordingly, IA(IBC)/231/2023 is dismissed, disposed of, and recorded vide separate sheets.

**IA(IBC)/142/2023:**

**Present:** Mr. Y. Suryanarayana, Ld. Counsel for the Applicant.  
Mr. M. Parameswara Reddy, Ld. Counsel for R4.

Orders pronounced. Accordingly, IA(IBC)/142/2023 is dismissed, disposed of, and recorded vide separate sheets.

**SANJAY PURI**  
**MEMBER (TECHNICAL)**

**RAJEEV BHARDWAJ**  
**MEMBER (JUDICIAL)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI BENCH AT MANGALAGIRI**

**IA (IBC)/419/2024  
In  
CP (IB)/51/9/AMR/2021**

[Application filed under Section 60(5) of the Insolvency and Bankruptcy Code,  
2016]

**In the matter of  
M/s VANTAGE MACHINE TOOLS PRIVATE LIMITED**

**Between:**

Canara Bank,  
Represented by its Chief Manager and Authorized Signatory,  
Venkateswara Puram,  
Krishna District, Vijayawada – 520010.

**...Applicant/CoC/FC**

**AND**

1. Mr. Immaneni Eswara Rao,  
Resolution Professional of M/s. Vantage Machine Tools Private Limited,  
[IBBI/PA-001/IP-P01224/2018-19/11943],  
#40-26-22, Mohiddin Street, Chandramoulipuram,  
Andhra Pradesh – 520010.
2. M/s. Quality Steels and Wires Products (Operational Creditor),  
Reg. Off: Survey Ni: 118, Duvvada Station Road,  
Kurmannapalem, Visakhapatnam.
3. M/s. Vantage Machine Tools Private Limited (Corporate Debtor)  
Reg. Off: D. No: 2-48, Gollapalli, Nuzvid Mandal,  
Krishna District – 521111.
4. M/s. Megha Engineering & Infrastructures Ltd.,  
Reg. Off: S-2, Technocrats Industrial Estate (TIE),  
Bala Nagar, Hyderabad, Telangana – 500037.

**...Respondents**

**Date of Order: 20.12.2024**

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**CORAM:**

**SHRI RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)**

**SHRI SANJAY PURI, HON'BLE MEMBER (TECHNICAL)**

**Parties/Counsels Appearance:**

**For Applicant** : Mr. Sreedhar Valiveti & Mrs. Babitha Rp, Advocates

**For Respondents** : -None-

**ORDER**

**[PER: BENCH]**

1. This is an application filed by the Applicant Canara Bank, Member of CoC who is having 94.65% voting share, under section 60(5) of the Insolvency and Bankruptcy Code, 2016, seeking to appoint Mr. Kalvakolanu Murali Krishna Prasad as Official Liquidator, whose name has been recommended by the Applicant, having 94.65% of voting share and pass such other order or orders as may deemed fit and proper in the circumstances of the case.
2. The Applicant stated that pursuant to the resolution passed in 10<sup>th</sup> & 11<sup>th</sup> CoC meetings, Resolution Professional has filed IA (IBC) (LIQ.)/1/2024 under section 33 of the Insolvency & Bankruptcy Code, 2016 to liquidate the Corporate Debtor. The CoC passed the following resolution:

*"RESOLVED THAT the decision of the Committee of Creditors to liquidate the Corporate Debtor for reason as duly considered be intimated to the Adjudicating Authority in accordance with section 33(2) of the IBC 2016 and the Resolution Professional is hereby directed to prefer an application to seek the orders of the Adjudicating Authority for liquidation of the Corporate Debtor as per the applicable provisions of Insolvency and Bankruptcy Code 2016 and such approval is in accordance with the I&B Code 2016 and regulations made thereunder."*

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3. The Applicant having 94.65% voting share, is recommending Mr. Kalvakolanu Murali Krishna Prasad to act as Liquidator and the proposed Insolvency Professional Mr. Kalvakolanu Murali Krishna having his Reg. No: IBBI/IPA-001/IP-P00967/2017-2018/11588, also filed Written Consent to act as the Liquidator, under regulation 31A of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
4. Therefore, we hereby appoint Mr. Kalvakolanu Murali Krishna having Reg. No: IBBI/IPA-001/IP-P00967/2017-2018/11588, Address: 8-27, Mythripuram Colony, Jileelguda, Karmaghat Vyshalinagar Post, Hyderabad – 500079 email ID: kmk123ip@gmail.com, to act as Liquidator of the Corporate Debtor M/s. Vantage Machine Tools Private Limited.
5. Accordingly, IA (IBC)/419/2024 in CP (IB)/51/9/AMR/2021 is disposed of.

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**SANJAY PURI**  
**MEMBER (TECHNICAL)**

Sd/-

**RAJEEV BHARDWAJ**  
**MEMBER (JUDICIAL)**

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**IN THE NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI BENCH AT MANGALAGIRI**

Inv. P (IBC)/5/2024  
In  
IA (IBC) (LIQ.)/1/2024  
In  
CP (IB)/51/9/AMR/2021

**[Application filed under Section 60(5) Insolvency and Bankruptcy Code, 2016  
read with Rule 32 & 11 of National Company Law Tribunal Rules, 2016]**

**In the matter of  
M/s VANTAGE MACHINE TOOLS PRIVATE LIMITED**

**Between:**

1. Nandamuri Meena Latha (Suspended Director)  
#2-48, Gollapalli Village,  
Nuzvid Mandal, Krishna District,  
Andhra Pradesh – 521111. ...Applicant No. 1
2. Potluri Mohana Murali Kishna (Suspended Director)  
#2-48, Gollapalli Village,  
Nuzvid Mandal, Krishna District,  
Andhra Pradesh – 521111. ...Applicant No. 2

**AND**

Mr. Immaneni Eswara Rao,  
Resolution Professional of M/s. Vantage Machine Tools Private Limited,  
#40-26-22, Mohiddin Stret,  
Chandramoulipuram, Vijayawada,  
Andhra Pradesh – 520010.

...Respondent

**Date of Order: 20.12.2024**

Sd/-

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**CORAM:**

**SHRI RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)**  
**SHRI SANJAY PURI, HON'BLE MEMBER (TECHNICAL)**

**Parties/Counsels Appearance:**

**For Applicants** : Mrs. Sunder Khatri, Advocate  
**For Respondent** : Mr. Immaneni Eswara Rao, Resolution Professional

**[ORDER]**  
**[PER: BENCH]**

1. This is an Application filed by the Applicants, Mrs. Nandamuri Meena Latha and Mr. Potluri Mohan Murali Krishna (Suspended Directors), under Section 60(5) of Insolvency and Bankruptcy Code, 2016 read with Rule 32 & 11 of National Company Law Tribunal Rules, 2016, seeking to permit the Applicants here to Intervene in IA (IBC) (LIQ.)/1/2024 and to stay the Liquidation application filed by the Respondent herein.
2. **Brief facts of the Application are as follows:**
  - a) The CD was admitted into CIRP by this Tribunal vide its order dated 28.11.2022 and Mr. Immaneni Eswara Rao was appointed as Interim Resolution Professional and later confirmed as the Resolution Professional.
  - b) The Canara Bank ('Committee of Creditors' or 'CoC') filed Section 7 Petition and this Tribunal vide order dated 10.02.2022 this Tribunal dismissed the said petition by stating that 'there is no default committed by the CD'. Later, the Canara Bank filed an application (SA 246/2022)

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under section 14 of the SARFAESI ACT, before the Hon'ble DRT Visakhapatnam. The applicants herein preferred a Stay application and the Hon'ble DRT Visakhapatnam vide order dated 29.08.2022 stayed the proceedings. Further, the Canara Bank filed OA No: 793/2019 under section 19 of Recovery of Debts Due to Banks and Financial Institutions Act, 1993 for recovery and Hon'ble DRT Visakhapatnam vide order dated 02.07.2024 dismissed the said OA on merits.

- c) The RP issued Form – G inviting expression of interest ('EoI') from the Prospective Resolution Applicants ('PRAs') on 28.01.2023 with the last date for submission of EoI as 12.02.2023. However, no EoI was received. RP re-issued the Form G and the Suspended Management, an MSME entity, submitted its EoI and deposited Refundable Process Participation Deposit of Rs. 10 Lakhs. The Respondent issued the Request for Resolution Plan ('RFRP'), Evaluation Matrix and Information Memorandum to the PRA/Applications herein on 15.06.2023 for submission of Resolution Plan by the PRA by stating the binding plan submission due date as on or before 15.07.2023.
- d) That on 05.08.2023 the applicants submitted its Resolution Plan, which was placed before the 8<sup>th</sup> CoC meeting held on 08.08.2023. Binding Submission Bank Guarantee ('BSBG') amounting to Rs. 15 Lakhs as per RFRP, was not submitted by the PRA/Applicants herein along with the Resolution Plan.
- e) In the 9<sup>th</sup> CoC meeting held on 18.08.2023, the applicants apprised the CoC that for BSBG, all the documents were submitted with the Canara Bank. BSBG was made by a third party by Mr. T V S G Kumar since

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Canara Bank was not granting BSBG to the Applicant herein/PRA. The Applicants have submitted the Resolution Plan to the CoC and the only requirement of submitting BSBG amounting to Rs. 15 Lakhs was pending because of the mischief played by the Canara Bank in the following manner:

- i. Your appellant applied for Bank Guarantee with the Canara Bank, Iron Center Branch.
- ii. Canara Bank, Iron Center Branch kept the application pending till the end moment and lastly rejected the same for the reason best known to them.

It is stated that the Resolution Plan submitted by the Applicants were kept on hanging only on the Canara Bank adamant attitude in delaying in issuing BSBG.

- f) In the 10th CoC meeting held on 28.08.2023, the RP apprised the CoC that the Valuation Report received by Respondent wherein two estimates of a value in Land & Building are significantly different, the resolution professional may appoint a third registered Valuer for an asset class for submitting an estimate of the value. However, the CoC members in its subsequent meetings denied the same and the CD was put into Liquidation without even having a conclusive fair value and Liquidation Value, inspite of having a Resolution Plan in hand. It is stated that the objective of the Code in maximization of assets of the CD has breached by the acts and deeds of the CoC. Revival of the CD is a never moto of the CoC and only

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acted in its own whims and fancies and hindered the smooth resolution of the CD.

- g) In the 11th CoC meeting held on 31.10.2023, the CoC members voted for Liquidation of the CD. But the RP in his application (at Page 7 para 18) mentioned the self-contradiction and anomalies of the CoC member where in concluded it's voting on 02.02.2024. That in terms of Regulation 25 of CIRP Regulations, the maximum time the RP can extend in e-voting is 24 hours. In the present case, the CoC spent almost 3 months in voting one agenda which clearly emanates the acts of the CoC which is completely violating the Rules and Regulations of the Code.
  - h) That the Applicants herein has the financial capacity to infuse the sum as per the Resolution Plan and that the investor has met the eligibility criteria as set in RFRP and basis which the CD can be revived. Therefore, for the reasons stated, the Applicants herein, being the Suspended Management/PRA, is seeking intervention in an application (IA (IBC) (LIQ.)/1/2024) filed by the Resolution Professional seeking Liquidation of the CD and seeking for Stay of the Liquidation proceedings against the CD.
3. **The Resolution Professional/Respondent filed counter dated 26.11.2024 and contended the following:**

- i) The Resolution Professional stated that the Form – G, RFRP and other related documents for submissions of Resolution Plan issued by the Resolution Professional on the approval of the CoC members keeping in mind that the public at large will be involved in the process, and it is the

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responsibility of the Prospective Resolution Applicant (PRA) to comply with all the requirements mentioned in the Form – G, EOI process document & RFRP. As per clause 1.8 of the RFRP issued by the RP, the Resolution Applicant shall provide a Bank **Guarantee/Earnest Money** Deposit of INR 15 Lakhs as a part of Binding Resolution Plan. The para 1.8.2 of the RFRP read as follows:

*“It is hereby clarified that non-submission of the BSBG by the Resolution Applicants, along with the submissions of the Resolution Plan, shall lead to rendering of that particular resolution plan as non-responsive, and accordingly the CoC shall have the right to reject such resolution plan.”*

- ii) The CoC in its commercial wisdom, has granted 2 extensions for submission of BSBG by the Applicants herein along with the Resolution Plan and inspite of such extension and even after taking 69 days from receipt of RFRP, EM & IM from Respondent, and the applicant failed to submit the BSBG. The delay caused by another branch of Canara Bank in issuing/rejecting the BSBG is a matter which is not in the preview of the Respondent and CoC. There is no inherent power vested with the RP to condone the delay in submission of BSBG and the decisions was consciously taken by the CoC.
- iii) That the Respondent had taken all the steps for abiding with the objective of the Code and also the company was put into liquidation only after failure by the Applicant/PRA to submit the BSBG. Since the Applicant could not complete the pre-condition for the submission of the Resolution Plan, the CoC had resolved to proceed ahead with Liquidation. The reasons for proceeding ahead with the Liquidation were clearly quoted by the

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Respondent and the CoC members expressed that they had already given sufficient time of 39 days for submission of BSBG to the PRA and cannot extend or give more time for submission of BSBG and declared the Resolution Plan as non-responsive and directed the Resolution Professional to proceed to the further course of action i.e., initiating the Liquidation proceedings against the CD.

- iv) That the RP opened the sealed covers of Valuation Reports received from the registered valuers in the 10th CoC meeting held on 28.08.2023 as per Regulation 35(2) of CIRP Regulations, 2016. The Valuation summary of the assets of the CD were shared electronically to the CoC members and Respondent brought to the attention of the CoC members about the significant difference in estimates of value in Land & Buildings assets class of the CD.
- v) The RP conducted the 11th CoC meeting on 31.10.2023 and discussed about the appointment of third valuer for Land & Buildings asset as per clause (b) of sub-regulation 1 of Regulation 35 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 at agenda item number A7. However, the CoC opined that as the CD was pushed into liquidation, the third valuation exercise would be futile and directed the RP not to proceed with the appointment of third valuer.
- vi) The Respondent on the direction of the CoC in order to obtain the higher-ups decisions, extended the voting time. The Respondents finds no violation of IB Code, 2016 and Regulations made thereunder. The Applicant herein is filing the number of applications with the apparent objective of prolonging proceedings, thereby causing undue delay in the

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CIRP of the CD. Therefore, by considering the above submissions, the Respondent RP prayed this Tribunal to dismiss the application.

4. In the light of the contest as aforementioned, the point which emerge for our consideration is:

**Whether the Applicant is a necessary or a proper party in an application seeking approval of the Adjudicating Authority for the Liquidation of the Corporate Debtor which has been voted by Committee of Creditors with requisite majority envisaged under the IB Code, 2016?**

5. We have heard Ld. Counsel Mr. Sunder Khatri, for the Petitioners and Mr. Immaneni Eswara Rao, Ld. Resolution Professional/Respondent and perused the record and written submissions.

**Point.**

Whether the Applicant/Suspended Board of Directors/Resolution Applicant whose plan has been declared as unresponsive, is a necessary or a proper party in an application seeking approval of the Adjudicating Authority for the Liquidation of the Corporate Debtor which has been voted by Committee of Creditors with requisite majority?

6. Mr. Sunder Khatri, Ld. Counsel for the Applicant submits that on 05.08.2023 the applicant submitted its Resolution Plan which was placed before the 8<sup>th</sup> CoC meeting held on 08.08.2023 and the Binding Submission of Bank Guarantee (BSBG) amounting to Rs. 15 Lakhs as per RFRP, was not submitted by the PRA/Applicants along with the Resolution Plan. Ld. Counsel further submitted that in the 9<sup>th</sup> CoC meeting held on 18.08.2023 the applicant apprised the CoC that for BSBG all the documents were submitted with the Canara Bank (CoC member) and BSBG was made by a third party Mr. T V S G Kumar since Canara

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bank was not granting BSBG to the applicants/PRA. The plan was submitted before the CoC and the only requirement of BSBG of Rs. 15 Lakhs was not submitted due to the mischief played by the Canara Bank, who kept the application pending till the end moment and lastly rejected the same for the best reasons known to them.

7. Ld. Counsel further submits that in the 10<sup>th</sup> CoC meeting held on 28.08.2023, the RP apprised the CoC that the Valuation Report received by respondent wherein two estimates of a value in Land & Building are significantly different, the RP may appoint a third registered valuer for an asset class for submitting an estimate of the value. However, the CoC members in its subsequent meetings denied the same and the Corporate Debtor was put into Liquidation without even having a conclusive fair value and Liquidation Value, inspite of having a Resolution Plan and according to the Ld. Counsel that the CoC has breached their duties and revival of the Corporate Debtor was never the moto of CoC and it only acted in its own whims and fancies and hindered the smooth resolution of the Corporate Debtor.
8. Ld. Counsel further states that in the 11<sup>th</sup> CoC meeting held on 31.10.2023, the CoC members voted for Liquidation of the Corporate Debtor and it is apposite to mention that the RP in its application at Page 7 – Para 18 mentioned the self-contradiction and anomalies of the CoC member where in concluded its voting on 02.02.2024. Ld. Counsel states that in terms of Regulation 25 of the CIRP Regulations, 2016, the RP can extend e-voting is 24 hours but in the present case the CoC spent 3 months in voting one agenda which clearly emanates the acts of the CoC which is completely violating the Rules and Regulations of the Code.

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9. Ld. Counsel states that the Applicant has the financial capacity to infuse the sum as per the Resolution Plan and met the eligibility criteria as set in RFRP. However, merely of technicalities and on the latch of the Banks (CoC) the Corporate Debtor is put into Liquidation. He further states that even after depositing 100% of the funds required to issue Bank Guarantee, Canara Bank denied to issue Bank Guarantee, in order to facilitate the suspended management to take back the Corporate Debtor. Ld. Counsel further states that the Applicant requested the CoC to grant time to submit BSBG after obtaining the Bank Guarantee from other Banking Institution but the CoC denied the request and treated the resolution plan as non-responsive resolution plan.
10. Ld. Counsel further states that the vindictive attitude of the Canara Bank is conspicuously evident in order dated 02.07.2024 passed by the Hon'ble DRT Visakhapatnam in OA. No. 793/2019. Recent Orders of the Hon'ble Debt Recovery Tribunal, Visakhapatnam on 02.07.2024 dismissing the OA. No. 793/2019 filed by the Canara Bank (COC Member) on merits and categorically pointed out that the Canara Bank acted as a Villon rather than as a Hero. Further the Hon'ble Debt Recovery Tribunal granted Rs. 5 Crores as damages for the willful wrong actions of the Canara Bank to the applicant.
11. Mr. Immaneni Eswara Rao, Ld. Resolution Professional/Respondent contends that the RFRP document issued by the Respondent explicitly mandates under clause 1.8.2, the submissions of a BSBG/Earnest Money Deposit (EMD) of Rs. 15,00,000/- as part of the Binding Resolution Plan and this requirement being essential and non-waivable condition, was unequivocally stipulated in the RFRO. Ld. RP further contends that the Respondent neither have the authority to Condone delays nor possess inherent powers to waive any requirements

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stipulated in the RFRP and the CoC exercising its commercial wisdom under the Code, is the sole authority empowered to make determinations in this regard.

12. Ld. RP further contends that the Applicants had made multiple attempts to provide the BSBG is devoid of merit. He contends that even after taking repeated extensions, the Applicants failed to comply with the mandatory submission requirements within the extended timeline of 60 days from the receipt of the RFRP, Evaluation Matrix and Information Memorandum. He contends the averment of the Applicants that the CoC's decision was based solely on the non-submissions of the BSBG is erroneous and conceals material facts. The CoC, in adherence to the time-bound framework prescribed under the code, had already granted an additional 39 days for compliance and the CoC deemed that the further extensions were neither feasible nor justified, especially considering the overarching objective of expeditious resolution under the code.
13. Ld. RP further submits that the Respondent had apprised the CoC about appointment of third valuer and the CoC in their 11<sup>th</sup> CoC meeting held on 31.10.2023 had opined that the Corporate Debtor was pushed to Liquidation and the third valuation exercise would be futile and directed Respondent not to proceed with appointment of the third valuer. Ld. RP further stated that the CoC acted within the ambit of its commercial wisdom and in compliance with the provisions of Section 30 and 33(2) of the Code, resolved to initiate Liquidation proceedings against the Corporate Debtor and the decision was passed with the requisite majority of at least 66% votes. Further, the RP bound by the CoC's decision and filed the application for liquidation before this Tribunal.

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14. Ld. RP placed reliance on the ruling of Hon'ble Supreme Court in **K. Sasidhar vs. Indian Overseas Bank [(2019) 12 SCC 150]**, has categorically held that the commercial wisdom of the CoC is paramount and not subject to judicial review by the Adjudicating Authority or the Appellate Authority. Similarly, in **Committee of Creditors of Essar Steel India Limited v. Satish Kumar Gupta [(2020) 8 SCC 531]**, the Apex Court affirmed that the CoC's decision taken in the exercise of its commercial wisdom, are binding and non-justiciable. The Hon'ble Supreme Court in **Duncan Industries Ltd. Vs. A.J. Agrochem [(2022) SCC OnLine SC 750]**, observed that once the CoC resolves to Liquidate the Corporate Debtor, the RP is obliged to file the Liquidation application without question. Further, in **Maharashtra Seamless Limited vs. Padmanabham Venkatesh [(2020) 11 SCC 467]**, it was reiterated that the CoC's commercial decisions, including recommendations for liquidation, are binding and non-justiciable.
15. Ld. RP further submits that the Applicants have repeatedly sought to delay the CIRP process, thereby frustrating the objectives of the Code and their action characterized by non-compliance and lack of bonafides, have contributed to unwarranted delays, contrary to the time-bound framework envisaged under the Code. Therefore, for the contentions raised, RP sought for dismissal of the Application in the interest of justice, equity and expedience in the CIRP.

**Our Analysis and findings:**

16. The contentions of the Applicants regarding the submission of Binding Submission Bank Guarantee is already decided by this Adjudicating Authority in IA (IBC)/11/2024 vide its order dated 20.12.2024, wherein we held that:

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*"Therefore, from the above rulings, it is clear that the CoC's decision is not to be subjected to unnecessary judicial scrutiny and intervention and we are of the firm view that the Committee of Creditors with 100% voting in its commercial wisdom rightly declared the plan submitted by the Applicants as Non-Responsive Resolution Plan in its 10<sup>th</sup> CoC meeting held on 28.08.2023, since the Applicants failed to submit the Binding Submission Bank Guarantee, even after taking multiple extensions. Hence, basing on these findings and observations, the prayers as sought for by the Applicants cannot be granted and the contentions of the Applicants are here by dismissed.*

*25. Accordingly IA (IBC)/11/2024 in CP (IB)/51/9/AMR/2021 is hereby dismissed."*

Therefore, there is no need to adjudicate upon the same issue in this application with respect to the non-submission of Binding Submission Bank Guarantee.

17. Now coming to another issue here that whether the Applicants herein have the locus to intervene in the Liquidation proceedings and be heard on issues concerning the approval of the Liquidation application by this Adjudicating Authority. We note the facts regarding the debt, default and subsequent initiation of CIRP by this Adjudicating Authority are undisputed facts. Only one Resolution Plan was received and which is declared as non-responsive resolution plan for not submitting the Binding Submission Bank Guarantee in the 10th CoC meeting held on 28.08.2023. Further, in the 11th CoC meeting held on 31.10.2023, the CoC with 100% voting resolved to initiate the liquidation proceedings against the Corporate Debtor in accordance with section 33 of the Code and resolved that:

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*“RESOLVED THAT the decision of the Committee of Creditors to liquidate the Corporate Debtor for reason as duly considered be intimated to the Adjudicating Authority in accordance with section 33(2) of the IBC 2016 and the Resolution Professional is hereby directed to prefer an application to seek the orders of the Adjudicating Authority for liquidation of the Corporate Debtor as per the applicable provisions of Insolvency and Bankruptcy Code 2016 and such approval is in accordance with the I&B Code 2016 and regulations made thereunder.”*

*“RESOLVED FURTHER THAT Sri Immaneni Eswara Rao, the Resolution Professional, be and hereby is authorized to do all such acts and deeds as is required to give effect to the above resolution.”*

18. At the outset, the scope and power of the Tribunal and the nature of enquiry required in an application seeking approval of Liquidation of the Corporate Debtor, after the same has been approved by the Committee of Creditors with the requisite majority as stipulated under the Code, is no more *res integra*, as the Hon'ble Supreme Court of India, in **K. Sashidhar v. Indian Overseas Bank & Others**, it has been stipulated that there is hardly any scope for judicial interference on the part of the Adjudicating Authority or the Appellate Tribunal except ensuring that the Resolution Plan meets the requirements of the Code and the related regulations.

**In K Sashidhar v. Indian Overseas Bank & Others (in Civil Appeal No.10673/2018 decided on 05.02.2019), held that:**

*“If the CoC had approved the Resolution Plan by requisite percent of voting share, then as per section 30(6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority (NCLT). On receipt of such a proposal, the Adjudicating Authority is required to satisfy itself that the Resolution Plan, as approved by CoC, meets the requirements specified in Section 30(2). The Hon'ble Court observed that the role of the NCLT is No more and No less”.*

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In **Kalpraj Dharamshi v Kotak Investment Advisors Limited, (2021) 10 SCC 404**, the court held that:

*"...in view of the paramount importance given to the decision of the CoC, which is to be taken on the basis of "commercial wisdom", NCLAT was not correct in law in interfering with the commercial decision taken by CoC by a thumping majority of 84.36%."*

19. Hence, it is a settled position of law that the commercial wisdom of CoC is not justiciable and the same should not be interfered with and it is also a settled position of law that the Applicants/Proposed Resolution Applicants/Suspended directors, whose plan has been declared as non- responsive resolution plan by the Committee of Creditors, does not have the locus to seek intervention in the Liquidation Application IA (IBC) (LIQ.)/1/2024 which has been approved by the Committee of Creditors with requisite percentage of voting as envisaged under the Code and they cannot be made party to the Liquidation proceedings. Therefore, we do not find any violations done by the Committee of Creditors in passing the resolution to liquidate the Corporate Debtor.
20. Therefore, with the above findings and observations, Inv. P (IBC)/5/2024 in IA (IBC) (LIQ.)/1/2024 in CP (IB)/51/9/AMR/2021 is hereby dismissed.

**SANJAY PURI**  
**MEMBER (TECHNICAL)**

**RAJEEV BHARDWAJ**  
**MEMBER (JUDICIAL)**

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IN THE NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI BENCH AT MANGALAGIRI

IA (IBC)/215/2024

in

IA (IBC)/142/2023 in CP (IB)/51/9/AMR/2021

[Application filed under Section 60(5) of Insolvency and Bankruptcy Code, 2016  
read with Rule 11 & 49 of National Company Law Tribunal Rules, 2016]

In the matter of  
M/s VANTAGE MACHINE TOOLS PRIVATE LIMITED

**Between:**

1. Nandamuri Meena Latha (Suspended Director)  
#2-48, Gollapalli Village,  
Nuzvid Mandal, Krishna District,  
Andhra Pradesh – 521111.

...Applicant No. 1

2. Potluri Mohana Murali Kishna (Suspended Director)  
#2-48, Gollapalli Village,  
Nuzvid Mandal, Krishna District,  
Andhra Pradesh – 521111.

...Applicant No. 2

AND

Mr. Immaneni Eswara Rao,  
Resolution Professional of M/s. Vantage Machine Tools Private Limited,  
#40-26-22, Mohiddin Stret,  
Chandramoulipuram, Vijayawada,  
Andhra Pradesh – 520010.

...Respondent

Date of Order: 20.12.2024

**CORAM:**

SHRI RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)  
SHRI SANJAY PURI, HON'BLE MEMBER (TECHNICAL)

Sd/-

Sd/-



**Parties/Counsels Appearance:**

**For Applicant** : Mrs. Sunder Khatri, Advocate  
**For Respondent** : Mr. Phani Uma Shankar, Advocate

**[ORDER]**  
**[PER: BENCH]**

1. This is an Application filed by the Applicants, Mrs. Nandamuri Meena Latha and Mr. Potluri Mohan Murali Krishna (Suspended Directors), under Section 60(5) of Insolvency and Bankruptcy Code, 2016 read with Rule 11 & 49 of National Company Law Tribunal Rules, 2016, seeking to set aside the order dated 30.05.2023 passed by this Tribunal in IA (IBC)/142/2023 and permit the Applicants to file their reply in IA(IBC)/142/2023.
2. It is submitted that, the Applicants, who were Respondents No. 1 & 2 in IA 142/2023, were set ex-parte by the Order dated 30.05.2023 of this Hon'ble Tribunal, thereby foreclosing their right to file a reply. The IA 142/2023 was filed by the Resolution Professional seeking cooperation from the Applicants. It is stated that, from the commencement of the CIRP and during the moratorium, the Applicants have provided all the available documents in their possession. There has been no specific demand from the RP for any additional documents that are in the Applicants' custody. It is further submitted that prior to the commencement of the CIRP, by Order dated 28.11.2022, all data and records were maintained at the sister concern, M/s. Vantage Spinning Mills Pvt Ltd, which suffered a fire on 03.04.2022 (FIR No. 185/2022 dated 04.04.2022 registered in Nuzvid Police Station).

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3. It is averred that, the Applicants have cooperated with the IRP and RP for the smooth conduct of the CIRP and have submitted all documents available with them. Due to paucity of funds, the Applicants could not engage counsel in time, which resulted in their non-appearance before this Hon'ble Tribunal and the closure of their right to file a reply in IA 142/2023. The Applicants, being unaware of the legal proceedings, could not arrange for representation and remained **unrepresented** before this Hon'ble Tribunal.
4. The Respondent, i.e., the Resolution Professional, filed its counter denying this averments of the application and submitted that the present application, seeking to recall/set aside the Order dated 30.05.2023, filed after an inordinate delay of over one year in June 2024, is legally untenable and barred by limitation. The Respondent further denied the Applicants' claim of cooperation and submission of all necessary documents, asserting that the Applicants failed to provide critical records. The contention that the data and records of the Corporate Debtor were kept at its sister concern, which caught fire on 03.04.2022, is also refuted, as it contravenes Sections 94 and 128 of the Companies Act, 2013. These provisions mandate that books of accounts and statutory records be maintained at the registered office of the company and prohibit their relocation without following the statutory procedure. Thus, the Respondent asserts that the Applicants' claims are baseless and lack legal merit.
5. Heard both the parties and perused the records.

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6. Coming to the contentions in question, we agree with the contention of the Applicant that an ex-parte order can be set aside under Rule 49 of the NCLT Rules, 2016, which has been defined:

*49. Ex-parte Hearing and disposal.-*

*1) Where on the date fixed for hearing the petition or application or on any other date to which such hearing may be adjourned, the applicant appears and the respondent does not appear when the petition or the application is called for hearing, the Tribunal may adjourn the hearing or hear and decide the petition or the application ex-parte.*

*(2) Where a petition or an application has been heard ex-parte against a respondent or respondents, such respondent or respondents may apply to the Tribunal for an order to set it aside and if such respondent or respondents satisfies the Tribunal that the notice was not duly served, or that he or they were prevented by any sufficient cause from appearing (when the petition or the application was called) for hearing, the Tribunal may make an order setting aside the ex-parte hearing as against him or them upon such terms as it thinks fit. Provided that where the ex-parte hearing of the petition or application is of such nature that it cannot be set aside as against one respondent only, it may be set aside as against all or any of the other respondents also.*

7. Thus, it becomes clear that the Ex-parte order can be reversed if it is proved that notice was not duly served or that the party was prevented by sufficient cause for his/her appearance. The case of the Applicant falls under the second clause that on the fixed dated he could not appear because of sufficient cause.
8. In the case at hand, the service of notice upon the Applicants, who were the R 1 and 2 in IA 142/2023 has not been disputed, and the record clearly demonstrates that proof of service was duly effected on the Applicants. Despite being served, Applicants failed to appear, leading to their being set ex parte on 30.05.2023. Subsequently, on 20.07.2023, Advocate G.S. Rama Rao appeared on behalf of the Applicants, sought time to file an application to set aside the

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ex parte order. However, it is evident from the record that the Applicants filed the present application to set aside the ex parte order after a substantial delay of over one year on 02.06.2024. Such inordinate delay in approaching this Hon'ble Tribunal demonstrates gross negligence and lack of due diligence on the part of the Applicants.

9. The Applicants have attempted to justify their inaction by contending that they lacked access to funds and were unaware of the legal proceedings. However, such explanations cannot be accepted as valid or sufficient reasons to condone the delay. It is a settled principle of law that ignorance of the law is no excuse. Courts presume that every party is aware of the legal provisions and procedures governing their rights and obligations.
10. For the reasons as discussed above, we come to the conclusion that essence of the applicants was intentional and malafide and there is no sufficient cause to set aside the Order dated 30.05.2023. As such, this Application is dismissed.
11. Further, notwithstanding this decision, and in view of the subsequent approval of the liquidation of the Corporate Debtor under Section 33 of the Insolvency and Bankruptcy Code, 2016, the prayers sought in IA/142/2023 no longer survive for adjudication. This Interlocutory Application, filed to set aside the ex parte order passed in IA/142/2023, has become infructuous and, as such, cannot be allowed.

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NCLT, Amaravati Bench  
IA (IBC)/215/2024 in IA (IBC)/142/2023  
In CP (IB)/51/9/AMR/2021

12. For the reasons stated above, IA/215/2023 is hereby **dismissed as being devoid of merit and infructuous in light of the liquidation of the Corporate Debtor.**
13. Therefore, IA (IBC)/215/2024 in IA (IBC)/142/2023 in CP (IB)/51/9/AMR/2021 stands dismissed and disposed off.

**SANJAY PURI**  
**MEMBER (TECHNICAL)**

**RAJEEV BHARDWAJ**  
**MEMBER (JUDICIAL)**

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**IN THE NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI BENCH AT MANGALAGAIRI**

**IA(IBC)(LIQ.)/1/2024**

**In**

**CP (IB)/51/9/AMR/2021**

[Application filed under Section 33 of Insolvency and Bankruptcy Code, 2016  
read with Section 60(5) of the IB Code, 2016]

**and**

**M/s VANTAGE MACHINE TOOLS PRIVATE LIMITED**

Mr. Immaneni Eswara Rao,  
Resolution Professional of M/s. Vantage Machine Tools Private Limited,  
# 40-26-22, Mohiddin Street, Opp. BSNL Exchange, Labbipet,  
M G Road, Vijayawada, NTR District,  
Andhra Pradesh – 520010.

...Applicant/Resolution Professional

**Date of Order: 20.12.2024**

**CORAM:**

**SHRI RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)**

**SHRI SANJAY PURI, HON'BLE MEMBER (TECHNICAL)**

**Parties/Counsels Appearance:**

**For Applicant/RP : Mr. T. Phani Uma Shankar, Advocate**

**[ORDER]**

**[PER: BENCH]**

1. This is an Application filed by Mr. Immaneni Eswara Rao, Resolution Professional ('RP' or 'Applicant') of M/s. Vantage Machine Tools Private Limited ('Corporate Debtor' or 'CD') under Section 33 of Insolvency and Bankruptcy Code, 2016 read with Section 60(5) of the IB Code, 2016, seeking the following reliefs:

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- a. To initiate Liquidation Proceedings against the Corporate Debtor u/Sec 33 of the Code and
- b. To appoint another Insolvency Professional as Liquidator of the Corporate Debtor other than the Resolution Professional/Applicant herein.

**Brief facts of the Application are as follows:**

2. The CD was admitted into Corporate Insolvency Resolution Process ('CIRP') by this Tribunal vide order dated 28.11.2022 and the applicant herein was appointed as the Interim Resolution Professional ('IRP'). The applicant issued a public announcement in Form-A in Financial Express (English) & Andhra Prabha (Vernacular – Telugu) on 09.12.2022 inviting claims from creditors of the CD with the last date as 23.12.2022.
3. Subsequent to the Public Announcement, the applicant had received the claims from the creditors of the CD and the applicant constituted Committee of Creditors ('CoC') and in the CoC passed a resolution to continue the applicant herein as Resolution Professional ('RP') in 1<sup>st</sup> CoC meeting held on 10.10.2023.
4. In the 2<sup>nd</sup> CoC meeting held on 27.01.2023, the RP discussed with the CoC to issue Form-G inviting expression of interest from the Prospective Resolution Applicants ('PRA's) and issued Form-G on 28.01.2023 with the last date for submission of Expression of Interest ('EoI') as 12.02.2023, with the following norms as eligibility criteria for PRAs.
  - a) Net worth – Rs. 20 Crores
  - b) Turnover – Rs. 50 Crores and
  - c) Refundable Process Participation Deposit – Rs. 10 Lakhs.

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5. In response no PRA had submitted the EoI and the applicant in the 3<sup>rd</sup> CoC meeting held on 17.03.2023 brought the same before the CoC and discussed about the re-issue of Form –G. Accordingly, the applicant after discussing the same with the CoC in the 4<sup>th</sup> CoC meeting, issued Form-G for the second time by reducing the threshold limits of eligibility criteria for PRA's which are as follows;
  - a) Net Worth – Rs. 15 Crores
  - b) Turnover – Rs. 30 Crores and
  - c) Refundable Process Participation Deposit – Rs. 10 Lakhs.
6. In response the RP received only one EoI from the suspended management of the CD. RP issued the provisional list of PRA's on 20.05.2023 as per Regulation 36A (10) & (11) of Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ('CIRP Regulations') and the RP had not received any objections to the list of PRA's within the timelines as per Reg. 36A of CIRP Regulations.
7. The RP issued final list of PRA's on 05.06.2023 as per Regulation 36A (12) of CIRP Regulations to the Committee of Creditors. The RP issued the Request for Resolution Plan ('RFRP'), Evaluation Matrix ('EM') and Information Memorandum ('IM') to the PRA on 15.06.2023 for submission of Plan by the PRA by stating the binding plan submission due date as on or before 15.07.2023.
8. The PRA requested the RP to extend the last date for submission of Resolution Plan vide email dated 14.07.2023 for 15 days, which was placed before the CoC in the 6<sup>th</sup> meeting held on 17.07.2023 and the CoC granted time till 24.07.2023, with 100% voting. Further, on 24.07.2023, the PRA

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again requested the RP to grant extension till 15.08.2023 for submission of the plan, which is also placed before the CoC in the 7<sup>th</sup> Meeting held on 02.08.2023 and accordingly CoC granted time till 15.08.2023 with 94.65% voting.

9. On 05.08.2023, the PRA submitted the sealed envelope cover containing the Resolution Plan and the same was opened before the CoC in the 8<sup>th</sup> meeting held on 08.08.2023. However, it is observed that, Binding Submission of Bank Guarantee ('BSBG') of Rs. 15 Lakhs as per RFRP was not submitted by the PRA along with the submitted Resolution Plan. The RP apprised the CoC that the CIRP period would end by 25.08.2023 and an application seeking extension of time needs to be filed for the following reasons:

- a. Non-Receipt of valuation report from the L&B and S&FA valuers and the Resolution Professional is required to open the sealed valuation reports received from the valuers in the presence of the CoC and electronically share the valuation figures with the CoC. The said valuation reports might be received within a day or two as per the oral confirmation provided by the valuers. The valuers expressed their concern that they were not provided with adequate information in order to provide their valuation report.
- b. Submission of Resolution Plan by RP to the CoC, after his evaluation of the Resolution Plan, whether the plan is in compliance with the provisions of IBC 2016 and regulations made thereunder.
- c. Evaluation, recording of deliberations of the CoC on feasibility and viability of the Resolution Plan, and voting on the Resolution Plan by CoC.
- d. Filing of CoC approved Resolution Plan before the Hon'ble NCLT, Amaravati Bench for its approval at least 15 days before the completion of the CIRP period.

10. Accordingly, the RP after discussing with the CoC in the 8<sup>th</sup> meeting, filed IA(IBC)/337/2023 seeking extension of time for a further period of 90 days from 25.08.2023 and this Tribunal vide its order dated 27.09.2023 granted extension as sought by the applicant. Further, in the 9<sup>th</sup> CoC meeting held on 18.08.2023, the RP apprised the CoC about the non-receipt of BSBG

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from PRA and accordingly CoC granted time till 23.08.2023 for submission of the same.

11. In the 10<sup>th</sup> CoC meeting held on 28.08.2023, the RP discussed with the CoC about non-receipt of BSBG amount from PRA and the CoC after prolonged deliberations with the meeting participants and PRA, decided to liquidate the CD, as they have provided sufficient time for submission of BSBG to the PRA.
12. The RP conducted the 11<sup>th</sup> CoC meeting on 31.10.2023 for obtaining necessary resolutions for liquidating the CD and in the said meeting the members of the CoC with 100% voting resolved to liquidate the CD as per the provisions of the IB Code, 2016.
13. Canara Bank, a CoC member, provided voting with anomalies and self-contradictions. The RP sent reminders to Canara Bank to provide proper voting on the resolutions for the 11<sup>th</sup> CoC meeting. Canara Bank finally provided their voting on 02.02.2024.
14. Further, the RP conducted the 12<sup>th</sup> CoC meeting on 15.12.2023 to discuss the anomalies in the voting provided by the bank and the CoC members provided their voting on 02.02.2024. To discuss about the enormous delay in voting by the CoC members, the RP conducted the 12<sup>th</sup> CoC meeting on 31.10.2024, seeking extension of time for a further period of 90 days. Accordingly, RP filed an application and this Tribunal vide its order dated 12.02.2024 granted time for a further period of 90 days from 23.11.2023 to 21.02.2024 as prayed.

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15. The RP conducted the 14<sup>th</sup> CoC meeting on 21.02.2024, to discuss the following issues:
- Forensic Audit Report received from Forensic Auditor M/s. Komandoor & Co, Chartered Accountants.
  - Enormous delay in providing voting by the CoC members and consequential derailment of CIRP process.
  - Filing of Interlocutory Application seeking extension of time for a further period of 60 days.
  - Ratification of appointment of advocate for representing the Resolution Professional in IA's to be filed for seeking relief on avoidable transactions.
16. The CoC members directed the RP to discuss with the Forensic Audit to include the opportunities given to the suspended management for providing the data/information in the forensic audit report and the RP communicated the same to the Forensic Audit to include all the opportunities they had given to suspended management. The Forensic Auditors submitted their final report on 11.04.2024.
17. The RP filed IA (IBC)/104/2024 before this Tribunal seeking extension of time for a further period of 60 days from 21.02.2024 and the same was allowed by this Tribunal vide its order dated 25.04.2024 and granted an extension as sought from 21.02.2024 to 21.04.2024. Further, RP filed an application seeking relief on avoidable transactions before this Tribunal on 21.04.2024 and the same was pending for adjudication.
18. Therefore, for the reasons stated above, the RP sought for approval of this Adjudicating Authority for Liquidation of the CD under Section 33 of the Code, since the only resolution plan submitted by the suspended

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management was declared as non-responsive resolution plan by the CoC members and the CoC members resolved to liquidate the CD.

19. We have heard Mr. T. Phani Umashankar, Ld. Counsel for the Resolution Professional and perused the record.
20. In the present case, after issuing the Form –G by the Resolution Professional for receiving Expression of Interest, only one Expression of Interest was received from the Prospective Resolution Applicant and the PRA failed to submit the Binding Submission of Bank Guarantee amounting to Rs. 15 Lakhs, as per the terms of the RFRP, even after seeking multiple extensions from the Committee of Creditors. As a result in the 11<sup>th</sup> CoC meeting held on the members of the Committee of Creditors with 100% voting declared the Resolution Plan submitted by the Prospective Resolution Applicant/Suspended Directors as the Non-responsive resolution plan as per clause 1.8.2 of the RFRP.
21. Clause 1.8.2 of the RFRP issued by the Resolution Professional reads as follows:

*“It is hereby clarified that non-submission of the BSBG by the Resolution Applicants, along with the submissions of the Resolution Plan, shall lead to rendering of that particular resolution plan as non-responsive, and accordingly the CoC shall have the right to reject such resolution plan.”*

Since the PRA failed to fulfill the above terms inspite of seeking multiple extensions, failed to submit the BSBG within the stipulated time and as a result the Members of the Committee of Creditors declared the plan

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submitted by the PRA as the non-responsive Resolution plan and opted for liquidation of the Corporate Debtor.

22. In the 11<sup>th</sup> meeting held on 31.10.2023, the CoC passed the following resolution:

**Item No. B4:** To discuss and approve the initiation of liquidation proceedings against the Corporate Debtor u/s 33 of I & B Code, 2016:

*“RESOLVED THAT the decision of the Committee of Creditors to liquidate the Corporate Debtor for reason as duly considered be intimated to the Adjudicating Authority in accordance with section 33(2) of the IBC 2016 and the Resolution Professional is hereby directed to prefer an application to seek the orders of the Adjudicating Authority for liquidation of the Corporate Debtor as per the applicable provisions of Insolvency and Bankruptcy Code 2016 and such approval is in accordance with the I&B Code 2016 and regulations made thereunder.”*

*“RESOLVED FURTHER THAT Sri Immaneni Eswara Rao, the Resolution Professional, be and hereby is authorized to do all such acts and deeds as is required to give effect to the above resolution.”*

Further in the 12<sup>th</sup> CoC meeting held on 15.12.2023 with 94.65% voting resolved that:

*‘RESOLVED THAT the CoC not recommended name of any Registered Insolvency Resolution Professional to be appointed as Liquidator and not fixed liquidator's fee as per Regulation 39D of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.’*

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23. Taking into consideration the facts and circumstances of the present case and further that the prospective resolution applicant who submitted the plan have failed to submit the Binding submission Bank Guarantee as per the terms of RFRP issued, despite of taking ample opportunities given, this Adjudicating Authority left with no option, but to order the liquidation of the Corporate Debtor, as prayed for in the application.
24. The Hon'ble Supreme Court in the matter of *K. Sashidhar Versus Indian Overseas Bank & Ors in Civil Appeal No. 10673 of 2018* has held that the commercial decision of CoC is non-justiciable. In this case also, it is seen that CoC with 100% majority has passed the resolution seeking liquidation of the Corporate Debtor.
25. Hence, we deem it proper to allow this Application. Accordingly, in exercise of powers conferred under Sub-Clause (i), (ii) and (iii) of Clause (b) of Sub-Section (1) of Section 33 of the IBC 2016, we proceed to pass the Order as follows:

**ORDER**

- a) The Adjudicating Authority hereby order for Liquidation of **M/S VANTAGE MACHINE TOOLS PRIVATE LIMITED**, which shall be conducted in the manner as laid down in Chapter III of Part II of the IBC, 2016.
- b) In view of the order passed by this Tribunal vide order dated 20.12.2024 in IA (IBC)/419/2024 , we hereby appointing **Mr. Kalvakolanu Murali Krishna** having Reg. No: **IBBI/IPA-001/IP-P00967/2017-2018/11588**, Address: 8-27, Mythripuram Colony,

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Sd/- 9 of 11



Jileelguda, Karmaghat Vyshalinagar Post, Hyderabad – 500079 email ID: kmk123ip@gmail.com, to act as Liquidator of the Corporate Debtor M/s. Vantage Machine Tools Private Limited, as resolved by the CoC.

- c) The Liquidator shall issue public announcement stating that Corporate Debtor is in Liquidation.
- d) The Moratorium declared under Section 14 of the IBC, 2016 shall cease to operate here from.
- e) Subject to section 52 of the IBC 2016 no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- f) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- g) The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.
- h) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- i) The Liquidator shall be entitled to such fees as may be specified by the Board in terms of Section 34 (8) of the Code.
- j) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the

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Sd/- 10 of 11



business of the Corporate Debtor is continued Liquidation process by the Liquidator.

- k) Copy of the Order shall be furnished to the IBBI, to the Regional Director (South Eastern Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Andhra Pradesh, the Registered Office of the Corporate Debtor; and the Liquidator.

26. With the above directions, IA(IBC)(LIQ)/1/2024 in CP(IB)/51/9/AMR/2021 is disposed of.

**SANJAY PURI**  
**MEMBER (TECHNICAL)**

**RAJEEV BHARDWAJ**  
**MEMBER (JUDICIAL)**

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**IN THE NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI BENCH AT MANGALAGIRI**

**IA (IBC)/11/2024**

**In**

**CP (IB)/51/9/AMR/2021**

[Application filed under Section 60(5) Insolvency and Bankruptcy Code, 2016 read with 36A & 36B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process of Corporate Persons) Regulations, 2016 and Rule 11 of National Company Law Tribunal Rules, 2016]

**In the matter of  
M/s VANTAGE MACHINE TOOLS PRIVATE LIMITED**

**Between:**

1. Smt. Nandamuri Meena Latha  
R/o: 2-62, Gundupalem, Krishna District,  
Andhra Pradesh – 521001. ...Applicant No. 1
2. Sri. Potluri Mohana Murali Kishna  
R/o: 2-62, Gundupalem, Krishna District,  
Andhra Pradesh – 521001. ...Applicant No. 2

**AND**

1. Mr. Immaneni Eswara Rao,  
Resolution Professional of M/s. Vantage Machine Tools Private Limited,  
R/o: 40-26-22, Mohiddin Street,  
Chandramoulipuram, Vijayawada,  
Andhra Pradesh – 520010. ...Respondent No. 1
2. Members of Committee of Creditors
  - (a) Canara Bank  
Add: Venkateswara Puram Branch,  
Vijayawada, Krishna District,  
Andhra Pradesh – 520010.
  - (b) M/s. Megha Engineering & Infrastructure Ltd.,  
Reg. Add: S-2, Technocrats Industrial Estate,  
Bala Nagar, Hyderabad, Telangana – 500037. ...Respondent No. 2

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Date of Order: 20.12.2024

**CORAM:**

**SHRI RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)**

**SHRI SANJAY PURI, HON'BLE MEMBER (TECHNICAL)**

**Parties/Counsels Appearance:**

**For Applicant** : Mr. M. Maharshi Viswaraj, Advocate  
**For Respondents no. 1** : CA Dr. Immaneni Eswara Rao, RP  
**For Respondent no. 2(a)** : Mr. Sridhar Valiveti & Mrs. Babitha Rp, Advocates  
**For Respondent no. 2(b)** : Mrs. Divya Dokka & Mrs. Divya Rani, Advocates

**ORDER**  
**[PER: BENCH]**

1. This is an Application filed by the Applicants, Mrs. Nandamuri Meena Latha and Mr. Potluri Mohan Murali Krishna (Suspended Directors/Proposed Resolution Applicant), under Section 60(5) of Insolvency and Bankruptcy Code, 2016 read with 36A & 36B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process of Corporate Persons) Regulations, 2016 and Rule 11 of National Company Law Tribunal Rules, 2016, seeking the following reliefs:
  - a. To set aside the decision of the CoC as recorder in minutes of 10<sup>th</sup> CoC meeting dated 28.08.2023, resolving the Resolution Plan submitted by the Applicants as Non-responsive Resolution Plan;
  - b. To waive the submission of BSBG by the applicant or in alternative grant one month time to the applicant to submit BSBG by applying for the same with another bank;

Sd/-

Sd/- Page 2 of 15



- c. Pending the present application, direct the CoC to not to pass any resolution to refer the CD into Liquidation and
- d. Pass such others orders as this Tribunal deems fit and proper.

**2. Brief facts of the Application are as follows:**

- a. The Adjudicating Authority admitted the CD into CIRP and appointed Mr. Immaneni Eswara Rao as the Insolvency Resolution Professional (IRP). The CD is an MSME, and the applicants are the suspended directors. The IRP made public announcements under the IB Code, 2016 and the 1st CoC meeting was convened on 10.01.2023. The IRP issued Form-G on 28.01.2023, with the last submission date being 12.02.2023. However, no one submitted the signed Expression of Interest (EoI). The suspended directors expressed interest to submit EoI, and the RP issued Form-G for the second time on 26.04.2023. The applicants submitted the EoI via email and physically on 11.05.2023. The Respondent No. 2 questioned the eligibility of the applicants as Proposed Resolution Applicants (PRA) as per section 29A of the Code. However, the CD being an MSME, the promoters/suspended management need not satisfy the criteria under section 29A of the Code. The provisional list of eligible PRAs was issued to applicants and CoC members on 20.05.2023, and no further objections were received up to the last date. The CoC extended the time to submit the Resolution Plan up to 15.08.2023, and the applicants submitted their Resolution Plan to the RP on 05.08.2023.
- b. The applicants were informed by Respondent No. 1/RP that a Binding Submission Bond Guarantee (BSBG) needed to be submitted along with the Resolution Plan. The BSBG was pending before the Canara Bank, Iron

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Centre Branch and was applied even before the 1st extension of the last date for submission of the Resolution Plan by the CoC. Since the CD was classified as NPA by Canara Bank, all credit facilities and banking facilities were blocked, so the PRA applied for BSBG through a third party who would invest money in the project.

- c. The application was confirmed by the representative of the CoC member, Canara Bank, which stated that they are in process of issuing BSBG to applicants. However, Canara Bank rejected the issuance of BSBG due to the CD being an NPA customer and under resolution process. The applicants requested for 4 days' time to submit the BSBG, but the CoC resolved that the Resolution Plan shall be construed as Non-responsive Resolution Plan.
- d. The Hon'ble NCLAT in the case of **Saravana Global Holdings Ltd. V. Bafna Pharmaceuticals Ltd & Ors. (Company Appeal (AT) No. 203 of 2019)** held that the Code envisages maximization of the value of the assets of the CD so that they are efficiently run as going concerns and promote entrepreneurship. The CoC is to consider the feasibility, viability, and other requirements specified by the Board, and the company being an MSME, it is not necessary for the CoC to follow all the procedures under the CIRP. The aforesaid judgment of the Hon'ble NCLAT was also upheld by the Hon'ble Supreme Court.
- e. The CoC rejected the applicants' resolution plan for the CD, citing non-responsiveness as the reason for the rejection. Canara Bank initially promised BSBG to be issued, but denied it without any reason. The applicants were left helpless and tried to start the process with another

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bank, but the CoC rejected their request for a reasonable period of four days. The CoC is pushing the CD into liquidation despite receiving the resolution plan from the applicants, who have not left any stone unturned to ensure the revival of the CD. Under these circumstances, the applicants are seeking the Tribunal to set aside the decision of the 10th CoC meeting, waive the submission of BSBG by the applicant, grant one month for submitting BSBG with another bank, and direct the CoC not to pass any resolution to refer the CD to liquidation.

3. **Counter of Respondent No. 1/Resolution Professional:**

- a. The RP issued Form-G and RFRP documents for the submission of a Resolution Plan with the approval from CoC members. The public will be involved in the process, and it is the Proposed Resolution Applicant's responsibility to comply with all requirements in the RFRP document. Regulation 36B (4A) of the CIRP Regulations states as follows:

“The request for resolution plan shall require the resolution applicant, in case its resolution plan is approved under sub-section (4) of section 30, to provide a performance security within the time specified therein and such performance security shall stand forfeited if the resolution applicant of such plane, after its approval by the Adjudicating Authority, fails to implement or contributes to the failure of implementation of that plan in accordance with the terms of the plan and its implementation schedule.”

Hence, as per the above provision, it is clear that the submission of BSBG has to be within the stipulated time and there is no provision of providing any extension thereof and it is failure on part of the Applicants/Proposed Resolution Applicant to submit the performance guarantee.

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- b. The CoC has decided to proceed with liquidation proceedings against the CD, after the company failed to submit a performance guarantee. The CoC members stated that they had already given 39 days for the BSBG submission to the PRA and cannot extend or give more time. They declared the Resolution Plan as non-responsive and directed the RP to proceed to the Liquidation proceedings against the CD. This decision follows an order passed on 15.02.2023 in the matter of Mr. Anurag Kumar Sinha, by the Disciplinary committee of IBBI regarding an insolvency professional's action taken on him for not adhering to the regulation regarding performance guarantee.
- c. Further submitted that strict compliance of Reg. 36B (4A) is warranted and no exception be granted in any manner whatsoever, in the matter of **Viceroy Hotels Limited [CP (IB)/219/7/HDB/2017]**, vide its order dated 09.06.2023, has rejected the resolution plan approved by the CoC on account of non-compliance of Reg. 36B (4A). In the matter of **Doshion Private Limited [Company Appeal (AT) (Ins)/254/2020]**, the Hon'ble NCLAT held that when CoC had approved with majority to pursue ahead with liquidation with their commercial wisdom, the same cannot be challenged until and unless there is an element fraud or irregularity. In the instant case also the CoC had decided to proceed ahead proceed ahead with liquidation, the same cannot be challenged thereof. The Hon'ble Supreme Court in **Ramakrishna Forgings Limited vs. Ravindra Loonkar (2023 INSC 1013)** and in **M.K. Rajagopalan vs. Dr. Periasamy Palani Gounder & Another (Civil Appeal Nos: 1682-1683 of 2022)** vide order dated 03.05.2023 has reiterated the primacy of this

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doctrine of commercial wisdom of CoC and further ruled that breach of the statutory provision, is liable to be rejected.

- d. It is stated that the RP being clothed with administrative powers but not judicial powers is bound to adhere to the directions and dictums of the CoC as long as the directions are within the four corners of Insolvency & Bankruptcy Code, 2016 and its Regulations. The chairperson confessed that granting of further time for submission of BSBG by the PRA is the prerogative of the CoC and solicited direction from the members of the CoC. The CoC directed the RP to treat the resolution plan submitted by the suspended management as Non-Responsive Resolution Plan in the 10<sup>th</sup> CoC meeting held on 28.08.2023.

**4. Counter of Respondent No. 2(a)/Canara Bank (Member of CoC):**

- a. It is stated that the applicant's account was declared as a Non-Performing Asset (NPA) with the respondent bank. They approached Canara Bank's Iron Centre branch to request BSBG for Rs. 15 Lakhs. The request was submitted to the branch officials, but the sanctioning authority rejected it on 19.08.2023. The applicant was also informed through email on the same day about the same with the following observations:

*"Our competent authority has rejected the issuance of Bank Guarantee in the name of M/s. Vantage Machine Tools, as M/S Vantage Machine Tools is NPA customer our V V Puram branch and which is also under resolution process. BG to be issued in the name of NPA customers is not permitted as per our extant guidelines".*

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- b. The applicant alleges that the bank representative stated at the 9th CoC meeting that they were in the process of issuing BSBG to the applicant, but none of the bank representatives provided assurance at any point. The applicant, aware that their loan accounts were already classified as NPA, tactfully approached another branch with the BSBG request, knowing that their request would be rejected by the bank and none of the bank representative has not provided any assurance at any point.
- c. The RP has given applicants 39 days to submit BSBG, but the applicant request was denied by this respondent in another branch on 05.08.2023, and the rejection was communicated on 19.08.2023. The applicant requested a 4-day extension from Axis Bank, but this was unsuccessful. The BSBG must be submitted within the stipulated time, and there is no provision for extension. The applicant failed to complete the pre-condition for successful implementation of the Resolution Plan, leading the CoC to proceed with the liquidation of the CD. The RP cited the reasons for proceeding with the liquidation, and the CoC members declared the Resolution Plan as non-responsive in the 10<sup>th</sup> CoC meeting held on 28.08.2023. The RP was directed to initiate liquidation proceedings against the CD, as they had already given sufficient time for the BSBG submission to the PRA. The CoC extended the BSBG submission period from 15.07.2023 to 23.08.2023, resulting in 39 days of extension. Despite resubmitting the Resolution Plan on 21.08.2023, the applicant was unable to provide the BSBG.

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5. **Counter of Respondent No. 2(b)/M/s. Megha Engineering and Infrastructure Ltd. (CoC member):**

- a. The Respondent no. 2(b) supports the stand taken by the RP/Respondent No. 1 who is representing the CoC (Respondent No. 2) and denies the averments of the applicants by contending that the petition is unsustainable and cannot be interfered with by this Tribunal with the decision of the CoC holding that the Resolution plan submitted by the applicant is non-responsive plan. The Canara Bank and Axis Bank might have refused to issue BSBG as per their own business guidelines, but the mere fact that Canara Bank admitted during the CoC meeting about the applicants approaching their bank for BSBG and that the bank is examining the application does not act as estoppel against the Bank. The refusal of Canara Bank to issue the BG cannot be a ground for the applicant to seek relief under section 60(5) of the Code, as long as the decision of the CoC is neither illegal nor contrary to any law.
- b. Further submitted that the applicants have been docile in procuring the BSBG on their own and wanted to prevail upon the RP to pursue the Canara Bank to process their request for BSBG. The CoC concluded that extension of any further time to produce BSBG by the applicant will only frustrate the resolution process and involve enormous costs. The decision taken by the CoC is justified by reasons and there is no room for interference with that decision. The Adjudicating Authority cannot do what the IBC consciously did not provide its power to do, and the interpretation of the Adjudicating Authority's residuary jurisdiction must be done in a manner that comports with the broader goals of the IBC.

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- c. Further stated that the Supreme Court's ruling in **Ebix Singapore Private Limited and Ors. Vs. Committee of Creditors of Educomp Solutions Limited and Ors** supports the submission that courts have limited NCLT's jurisdiction to insolvency-related issues. While the provision grants NCLT exclusive jurisdiction to entertain applications by and against the CD, it does not grant the Tribunal jurisdiction to address all legal and factual questions. The CoC's decision-making process was not illegal, and the petition was deemed an abuse of process and misconceived. The petition's intent was to prolong the time without merit, and the application may be dismissed.
6. The Applicants and the Respondents have filed their written submissions by reiterating the contentions and averments made in their application and counters. Therefore, the same were not produced for the sake of brevity.
7. In light of the contest as aforementioned, the point that emerge for our consideration is:
- Whether the Applicants are entitled for the reliefs as prayed in the Application? If so, for what relief?**
8. We have heard Mr. Sunder Khatri, Ld. Counsel for the Applicants, Mr. Immaneni Eswara Rao, Ld. Resolution Professional/Respondent No. 1, Mr. Sreedhar Valiveti & Mrs. Babitha Rp, Ld. Counsels for Respondent No. 2 (a) and Mrs. Divya Dokka & Mrs. Divya Rani, Ld. Counsels for Respondent No. 2 (b) and perused the record and written submissions.

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9. The Contention of the Applicants is that in the 10<sup>th</sup> CoC meeting held on 28.08.2023, the CoC members voted the Resolution Plan submitted by the Applicant as non-responsive resolution plan for not submitting the Binding Submission Bank Guarantee and the CoC has denied to extend the time for submitting the same, and stating that the Applicant has the financial capacity to infuse the funds and that they have also met the eligibility criteria as stipulated in the RFRP. For the reason stated, the Applicants sought for Stay of the Liquidation Application filed by the Resolution Professional. It is pertinent to mention here Clause 1.8.2 of the RFRP issued by RP, which reads as follows:

*"It is hereby clarified that non-submission of the BSBG by the Resolution Applicants, along with the submissions of the Resolution Plan, shall lead to rendering of that particular resolution plan as non-responsive, and accordingly the CoC shall have the right to reject such resolution plan."*

Therefore, it is clear that the non-submission of the BSBG within the stipulated time mentioned under the RFRF, the plan would be treated as the unresponsive resolution plan.

10. It is the contention of the Applicants that the Canara Bank has not issued the Bank guarantee even after depositing 100% deposit and the CoC denied the request of the Applicants to grant some more time to submit the BSBG. However, it is observed that the Applicants submitted their Resolution Plan on 05.08.2023 and was placed before the CoC in 8th CoC meeting held on 08.08.2023 and along with the Plan the Applicants has not submitted the BSBG of Rs. 15 Lakhs as per RFRP.

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11. It is evident from the minutes of the meetings, that the CoC has granted multiple extensions to the Applicants for submission of BSBG. The Applicants requested the Resolution Professional for extension of last date for submission of Resolution Plan vide email dated 14.07.2023 for 15 days, as the binding plan submission due date as on or before 15.07.2023. This request was placed before the CoC in 6th meeting held on 17.07.2023 and the CoC granted the time till 24.07.2023. Again on 24.07.2023, the Applicants requested the RP to grant extension till 15.08.2023 and the CoC in 7th Meeting held on 02.08.2023 granted time till 15.08.2023 with 94.65% voting. Later, the Applicants submitted their Resolution Plan before the CoC in 8th CoC meeting held on 08.08.2023 but not submitted the BSBG amounting to Rs. 15 Lakhs as per RFRP. RP filed IA (IBC)/337/2023 seeking extension of 90 days from 25.08.2023 and this Tribunal vide order dated 27.09.2023 allowed the same.
12. In the 9th CoC meeting held on 18.08.2023, the RP discussed with the CoC about the non-receipt of BSBG from the Applicants and the CoC granted time till 23.08.2023 but the Applicants have not submitted the same. In 10th CoC meeting held on 28.08.2023, again RP apprised the CoC about the non-receipt of BSBG from the Applicants and the CoC decided to liquidate the Corporate Debtor, as they have provided sufficient time for submission of BSBG to the Applicants. Further, it could be seen from the Liquidation Application IA (IBC) (LIQ.)/11/2024 filed by the Resolution Professional that the RP conducted the 11th CoC meeting on 31.10.2023 and the CoC with 100% voting resolved to liquidate the Corporate Debtor. Therefore, from the above, it is very clear that the CoC has granted multiple extensions and sufficient time to submit the

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BSBG amounting to Rs. 15 Lakhs but the Applicants failed to submit the same before the CoC by stating that the Canara Bank has not issued BSBG and the contention of the Applicants that the CoC has not granted sufficient time to submit the BSBG is untenable and unacceptable. If the Canara Bank has not issued the BSBG, the Applicants should have applied to another bank for obtaining the same but he failed to do so, which itself shows the negligence on part of the Applicants. Moreover, it is also evident that the Sanctioned authority of Canara Bank vide email dated 19.08.2023 rejected the request of the Applicants by stating that *"Our competent authority has rejected the issuance of Bank Guarantee in the name of M/s. Vantage Machine Tools, as M/S Vantage Machine Tools is NPA customer our V V Puram branch and which is also under resolution process. BG to be issued in the name of NPA customers is not permitted as per our extant guidelines"*. Therefore, the contention of the Applicants that the Canara Bank played mischief by not issuing the bank guarantee upto the last minute is not acceptable.

13. In spite of multiple extensions and after taking 69 days from the receipt of the RFRP, EM and IM, the Applicants failed to submit the BSBG along with the Resolution, which shows the malafide intention on part of them. Therefore, the contention of the Applicants that the CoC acted in a mischief against the suspended management is untenable and unsustainable and the CoC has rightly declared the plan submitted without providing BSBG for an amount of Rs. 15 Lakhs as per RFRP, by the Applicants herein as non-responsive resolution plan.

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14. As stated above that in the 11th CoC meeting held on 31.10.2023, the CoC with 100% voting resolved to initiate the liquidation proceedings against the Corporate Debtor in accordance with section 33 of the Code and resolved that:

*“RESOLVED THAT the decision of the Committee of Creditors to liquidate the Corporate Debtor for reason as duly considered be intimated to the Adjudicating Authority in accordance with section 33(2) of the IBC 2016 and the Resolution Professional is hereby directed to prefer an application to seek the orders of the Adjudicating Authority for liquidation of the Corporate Debtor as per the applicable provisions of Insolvency and Bankruptcy Code 2016 and such approval is in accordance with the I&B Code 2016 and regulations made thereunder.”*

*“RESOLVED FURTHER THAT Sri Immaneni Eswara Rao, the Resolution Professional, be and hereby is authorized to do all such acts and deeds as is required to give effect to the above resolution.”*

15. At the outset, the scope and power of the Tribunal and the nature of enquiry required in seeking approval of Liquidation of the Corporate Debtor when no plans have been received or in the above stated circumstances, after the same has been approved by the Committee of Creditors in their commercial wisdom, with the requisite majority as stipulated under the Code, is no more res integra, as the Hon'ble Supreme Court of India, in ***K Sashidhar v. Indian Overseas Bank & Others (in Civil Appeal No.10673/2018 decided on 05.02.2019)***, held that:

*“If the CoC had approved the Resolution Plan by requisite percent of voting share, then as per section 30(6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority (NCLT). On receipt of such a proposal, the Adjudicating Authority is required to satisfy itself that*

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*the Resolution Plan, as approved by CoC, meets the requirements specified in Section 30(2). The Hon'ble Court observed that the role of the NCLT is No more and No less".*

In **Kalpraj Dharamshi v Kotak Investment Advisors Limited, (2021) 10 SCC 404**, the court held that:

*"...in view of the paramount importance given to the decision of the CoC, which is to be taken on the basis of "commercial wisdom", NCLAT was not correct in law in interfering with the commercial decision taken by CoC by a thumping majority of 84.36%."*

Therefore, from the above rulings, it is clear that the CoC's decision is not to be subjected to unnecessary judicial scrutiny and intervention and we are of the firm view that the Committee of Creditors with 100% voting in its commercial wisdom rightly declared the plan submitted by the Applicants as Non-Responsive Resolution Plan in its 10<sup>th</sup> CoC meeting held on 28.08.2023, since the Applicants failed to submit the Binding Submission Bank Guarantee, even after taking multiple extensions. Hence, basing on these findings and observations, the prayers as sought for by the Applicants cannot be granted and the contentions of the Applicants are here by dismissed.

16. Accordingly, IA(IBC)/11/2024 in CP(IB)/51/9/AMR/2021 is hereby dismissed.

**SANJAY PURI**  
**MEMBER (TECHNICAL)**

**RAJEEV BHARDWAJ**  
**MEMBER (JUDICIAL)**

Chandu





**IN THE NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI BENCH AT MANGALAGIRI**

**IA (IBC)/231/2023  
In  
CP (IB)/51/9/AMR/2021**

[Application filed under Section 60(5) of the Insolvency and Bankruptcy Code,  
2016]

**In the matter of  
M/s. VANTAGE MACHINE TOOLS PRIVATE LIMITED**

**Between:**

Canara Bank,  
Represented by its Chief Manager and Authorized Signatory,  
Venkateswara Puram, Krishna District, Vijayawada – 520010.

...Applicant/CoC/FC

**AND**

1. M/s. Quality Steels and Wires Products (Operational Creditor),  
Reg. Off: Survey Ni: 118, Duvvada Station Road,  
Kurmannapalem, Visakhapatnam.

...Respondent No. 1

2. M/s. Vantage Machine Tools Private Limited (Corporate Debtor)  
Reg. Off: D. No: 2-48, Gollapalli, Nuzvid Mandal,  
Krishna District – 521111.

...Respondent No. 2

3. M/s. Megha Engineering & Infrastructures Ltd.,  
Reg. Off: S-2, Technocrats Industrial Estate (TIE),  
Bala Nagar, Hyderabad, Telangana – 500037.

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NCLT, Amaravati Bench  
IA (IBC)/231/2023 in CP (IB)/51/9/AMR/2021

...Respondent No. 3.

4. Mr. Immaneni Eswara Rao,  
Resolution Professional of M/s. Vantage Machine Tools Private Limited,  
[IBBI/IPA-001/IP-P01224/2018-19/11943],  
#40-26-22, Mohiddin Street, Chandramoulipuram,  
Andhra Pradesh – 520010.

...Respondent No. 4

**Date of Order: 20.12.2024**

**CORAM:**

**SHRI RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)**

**SHRI SANJAY PURI, HON'BLE MEMBER (TECHNICAL)**

**Parties/Counsels Appearance:**

**For Applicant** : Mr. Sreedhar Valeti & Mrs. Babitha, Advocates

**For Respondents No. 3** : Ms. Divya Dokka, Advocate.

**For Respondent No. 4** : Mr. T. Phani Umasankar, Advocate.

**[ORDER]**

**[PER: BENCH]**

1. This application is filed by the Applicant Canara Bank (Committee of Creditors), under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, seeking the following reliefs:

- a. To declare the voting share of 5.35% allotted to the Respondent No.3 to be arbitrary, illegal and against the provisions of IB Code and

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Regulations framed there under and consequently declare the same as null and void and restore the voting rights of the Petitioner;

- b. To direct the RP to disallow the claim of 3<sup>rd</sup> Respondent, as the same is not supported with proper documentation;
- c. To declare all cost of and expenses incurred under the CIRP till date to be borne by the Corporate Debtor and the same should not be included in the CIRP Costs as the Company Petition filed by the Corporate Debtor is a gross abuse of process of law and
- d. To impose appropriate costs on the RP, Corporate Debtor and Respondent for abusing the process of law and pass such other order or orders as may deemed fit and proper in the circumstances of the case.

**2. Brief facts of the application:**

- a. This Bench admitted an application filed by M/s. Quality Steels and Wire Products under Section 9 of the IBC, initiating the CIRP on 28.11.2022 against the M/s. Vantage Machine Tools Private Limited (CD) and appointing Mr. Immaneni Eswara Rao as the IRP. A public announcement was published inviting claims. The Applicant submitted its claim accordingly. The CoC was constituted under Section 21 of the IBC, comprising of Applicant and R3.
- b. In the first CoC meeting held on 10.01.2023, the IRP declared R3 as a Financial Creditor for Rs. 6.73 crore, alongside six other Operational Creditors. The IRP informed the CoC that the claim of the R3 was not admitted due to an error in the claim form, where the amount was entered under Sl. No. 6 instead of Sl. No. 4, and further information was sought. In the 2<sup>nd</sup> CoC meeting held on 27.01.2023, the RP informed the CoC that the claim of the R3 was admitted for Rs. 3.5 crore as the principal amount, while the interest claim was disallowed and kept under verification. A

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voting share of 5.35% was assigned to the R3. The applicant objected, arguing that the RP admitted the claim without proper documentation, despite the absence of any clause for interest or time value of money, and classified the R3 as a FC.

c. The Applicant contends that the RP failed to insist on the R3 furnishing supporting documents for their claim. The Applicant asserts that the RP's actions indicate collaboration with the CD and R3, leading to an abuse of process. Consequently, the Applicant has filed the present petition based on the following grounds:

- i. The CIRP is not conducted as per statutory provisions, with the CD, RP, and R3 appearing to work together.
- ii. The RP failed to recognize the inconsistency in the R3's claims, contradicting the stands taken in Form C and the 2nd and 3rd CoC meetings, where the 3rd Respondent did not provide supporting documents before reducing the voting share of the Applicant.
- iii. The RP failed to appreciate Rule 12(1) and (2) of the IBBI Regulations, 2016.
- iv. The RP did not consider that the alleged debt of the R3 was not reflected in the CD's financial statements or balance sheet as of 31.03.2018.
- v. The RP admitted the R3's claim despite the absence of an interest clause and the failure to provide proper documentation, despite repeated requests from the Applicant, thus violating the provisions of the IBC.

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- vi. The RP failed to recognize that no charge by the R3 was registered with the RoC under Section 78 of the Companies Act, 2013, nor disclosed by the CD.
  - vii. The RP ignored the requirement under Section 180(C) of the Companies Act, 2013, for a special resolution to borrow money beyond the company's paid-up share capital and reserves, which was not passed in this case.
  - viii. The RP failed to recognize that the alleged claim of the R3 is not reflected on the MCA Portal, nor was it uploaded to the master data.
  - ix. The RP overlooked that the alleged claim was not reflected in MSOD, stock statements, sundry creditors, financial statements, or balance sheets, and thus should have rejected the claim.
  - x. The RP failed to observe that the R3's claim, including Rs. 3.5 Crores transferred for Share Application Money, was not supported by any documentation, despite claims in Form C and CoC meetings.
  - xi. The RP did not appreciate Section 21(9) & (10) of the IBC, which grants the Committee of Creditors the right to request financial information from the RP, and mandates the RP to provide such information within seven days.
- d. The Applicant cited the judgment in *M/s. Catalysis Refinery Services v. Ganapati Global Pvt. Ltd.* by the Hon'ble NCLT Jaipur Bench, which

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emphasizes that under Section 186(9) of the Companies Act, 2013, a register of loans must be maintained, and entries authenticated as per Rule 12 of the Companies (Meetings of Board and its Powers) Rules, 2014. The judgment states that the production of a financial contract, along with Form MBP 2, corroborates the loan agreement, including its terms and repayment schedule and that to initiate CIRP under Section 7 of the IBC, the applicant must prima facie prove the existence of a financial debt and a default.

**3. The Respondent No. 3 i.e., M/s. Megha Engineering & Infrastructures Ltd., filed its counter stating that:**

- a) The CD, through its Managing Director, approached the Managing Director of the R3 on 21.11.2017, requesting a loan of Rs. 3.5 Crores to discharge its debts to various banks. Due to the cordial relationship between the MDs of both parties, R3 granted the loan via RTGS, with repayment due within one month. The loan was acknowledged by the CD's MD in a letter dated 24.02.2019, and the CD made appropriate entries in its books of accounts.
- b) After the loan period expired, R3's representatives visited the CD's registered office multiple times, requesting repayment. Despite assurances from the CD, it failed to repay the loan. **Consequently**, R3 issued a legal notice on 23.03.2019, demanding repayment along with 18% interest. The CD responded on 01.05.2019, requesting 10 days to submit a detailed

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reply, and on 13.05.2019, admitted the loan's existence, citing financial instability as the reason for non-repayment.

- c) On 17.07.2019, R3 issued another legal notice seeking repayment of Rs. 3.5 Crores with 18% interest. The CD assured that the loan, with accrued interest, would be repaid in instalments, but failed to honour this commitment. As a result, R3 filed Corporate Petition (IB) No. 38/7/AMR/2022 under Section 7 of the IBC, which was disposed of on 02.12.2022, directing R3 to file its claim before the Interim Resolution Professional (IRP). R3 complied, submitting the claim on 26.12.2022, and responded to the IRP's request for the interest calculation sheet on 27.12.2023.
- d) The Applicant did not oppose R3's claim during the 1st CoC meeting, and the claim was admitted provisionally due to the unavailability of the CD's financial records. It is pertinent to note that the loan amount of Rs. 3.5 Crores was transferred from R3's bank account to the CD's account, and the CD did not deny the receipt of the loan in its replies to the legal notices.
- e) R3 asserts that Section 186(9) of the Companies Act, 2013, cited by the Applicant, does not apply to this transaction. Even if there was a procedural violation under Section 186, it does not absolve the CD of its financial obligation to R3. The Applicant's allegation that the loan was for share application money, rather than a loan, remains unsupported by any documentary evidence from the CD. On 17.03.2023, the IRP raised concerns regarding the collation of R3's claim, to which R3 responded promptly on 21.03.2023 with the necessary documentation.

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**4. The Respondent No. 4 i.e., Resolution Professional , filed its counter denying the contentions of the Applicant stating that:**

- a) R4 admitted the claim of R3 only after the receipt of a revised claim, as requested by R4. The admission was made considering that R3 had rectified the technical issues in the original claim and provided the necessary information. R4 acted in compliance with Section 25 of the IB Code, 2016, along with Regulation 13 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The revised claim form in Form C dated 30th December 2022 was submitted to Respondent No. 04 with the following supporting documents:
- i. Certificate of Registration of Financial Creditor issued by MCA.
  - ii. Detailed Statement of Account.
  - iii. Letter dated 24.02.2019 issued by the Corporate Debtor acknowledging the existence of the Loan availed from the Financial Creditor.
  - iv. Consolidated Bank Statement dated 23.11.2017.
  - v. Copy of the RTGS Transaction receipt.
  - vi. Legal Notice dated 23.03.2019.
  - vii. Reply from Corporate Debtor dated 01.05.2019 to the Legal Notice dated 23.03.2019
  - viii. Reply dated 13.05.2019 from the legal representative of the Corporate Debtor to the Legal Notice Dated 23.03.2019.
  - ix. Legal Notice dated 17.07.2019.

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x. Hon'ble NCLT order dated 08.12.2022 in  
CP(IB)No.38/7/AMR/2022.

- b) The allegations made by the Applicant are unsubstantiated as the claim was admitted based on proper verification, with no prejudice caused to other creditors. R4 took all reasonable steps, including email communications and discussions with the Statutory Auditors of the CD, to understand the nature of the debt and the loan transaction. The Statutory Auditors clarified that the transaction was categorized as Advance from Customers, and it can also be classified as an amount raised under any other transaction with the commercial effect of borrowing, falling under Section 5(8)(f) of the Insolvency and Bankruptcy Code, 2016.
- c) R4 submits that "time value of money" does not mandatorily imply the inclusion of interest in the amount of debt. In this regard, R4 relies on the judgment in **Earth Gracia Buildcon Pvt. Ltd. v. Earth Infrastructure Ltd. Sach Marketing Pvt. Ltd. v. Resolution Professional of Mount Shivalik Industries, and Pioneer Urban Land and Infrastructure Ltd. & Anr. v. Union of India & Ors. Orator Marketing Private Limited v. Samtex Desinz Private Limited.**
- d) The Applicant has erred technically by attributing the categorization of the debt as Share Application Money to R3, when it was in fact the CD (R2) that made such categorization. R3 maintained that the amount was advanced as a loan for the Corporate Debtor's financial needs. Therefore, this ground raised by the Applicant without merit. R4 relied on the revised claim form and supporting documents submitted by R3, not on any

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statements or assertions made by the CD. Respondent No. 04 undertook multiple communications with R3, the CD, and the Statutory Auditors to verify the claims. This verification process was conducted with due diligence, and the principal amount of Rs. 3.5 Crores was admitted on a provisional basis.

- e) R4 duly considered the necessary aspects for claim verification and reviewed the supporting documents. The default amount fulfills all elements of financial debt. R4 has no vested interest in R3's claim and has not colluded with R3. The voting share of R3, at 5.35%, is minimal, causing no prejudice to the Applicant. Additionally, the absence of charge creation with the MCA does not affect the creditor's rights to recover dues from the Corporate Debtor, as the debt is unsecured, with no security created on the loan.
5. Heard the Counsel for Applicant and Counsel for R3 and R4 and perused the records.
6. *The primary issue for consideration is whether the claim submitted by R3 qualifies as a financial debt and whether the RP/R4 has appropriately admitted the claim of R3 in accordance with the provisions of the IB Code.*
7. Upon the perusal of the records placed before us, it is observed that R3 transferred an amount of Rs. 3.5 Crores to the CD through RTGS. The terms of the transaction stipulated that the amount was to be repaid within a period of one month. R3 has submitted various evidences to R4/RP, in support of the claim, including bank statements, legal notices, and acknowledgments of debt by the CD. These documents substantiate the existence of the debt.

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8. To address the issue in hand, we rely on the principles laid down in judicial precedents that provide clarity on the characterization of financial debt. In *Earth Gracia Buildcon Pvt. Ltd. v. Earth Infrastructure Ltd. Company Appeal (AT) (Ins.) No. 351 of 2020*, and *Sach Marketing Pvt. Ltd. v. Resolution Professional of Mount Shivalik Industries Company Appeal (AT) (Ins.) No. 180 of 2021*, the Hon'ble NCLAT, Delhi emphasized that the concept of "time value of money" is intrinsic to financial debt. Further, the Hon'ble Supreme Court, in *Pioneer Urban Land and Infrastructure Ltd. & Anr. v. Union of India & Ors, 2019 SCC OnLine SC 1005.*, elaborated on the concept of financial debt by affirming that the phrase "time value of money" necessitates the existence of an agreement or understanding regarding repayment within a fixed timeframe.
9. Additionally, in *Messrs. Orator Marketing Private Limited v. Messrs. Samtex Desinz Private Limited [Civil Appeal No. 2231 of 2021]*, the Hon'ble Supreme Court conclusively held that even interest-free loans advanced to a corporate body fall within the ambit of financial debt under the IBC. The Court examined the phrase "if any" in Section 5(8) of the IBC and clarified that financial debt includes the principal amount outstanding and, where applicable, interest. Moreover, the Court referred to clause (f) of Section 5(8), which states that financial debt includes any amount raised under a transaction having the commercial effect of borrowing.
10. In light of these judgments, it is evident that the transaction between R3 and the CD, wherein Rs. 3.5 Crores was advanced and agreed to be repaid within a specified period of one month, satisfies the criteria of financial debt as

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envisaged under the IBC. The arrangement carries the commercial effect of borrowing and reflects the essence of "time value of money."

11. The Supreme Court in *Swiss Ribbons Pvt. Ltd. v. Union Of India, AIR (2019) 4 SCC 17* held that the resolution professional has the duty to receive and collate all the claims submitted by the creditors. However, the court observed that the resolution professional does not have quasi-judicial powers, but only administrative powers. Even when RP exercises the discretion in verifying claims, it is only in the administrative capacity. This means that the RP cannot decide to reject the submitted claims. In the present case, R4/RP, has duly considered all necessary aspects for claim verification and has thoroughly reviewed the supporting documents submitted by R3, these documents substantiate the claim, and fulfils all the requisite elements of financial debt. The RP has, therefore, acted within the scope of its administrative authority in admitting the claim. The RP/R4 has rightly admitted the claim, ensuring compliance with the statutory framework and no procedural error has been committed in the verification or admission process.
12. In view of the above. We deem it appropriate to reject the prayer of the applicant and dismiss the present Application.
13. Accordingly, IA (IBC)/231/2023 in CP (IB)/51/9/AMR/2021 is dismissed and disposed of.

**SANJAY PURI**  
**MEMBER (TECHNICAL)**

**RAJEEV BHARDWAJ**  
**MEMBER (JUDICIAL)**

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**IN THE NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI BENCH AT MANGALAGIRI**

**IA (IBC)/142/2023  
In  
CP (IB)/51/9/AMR/2021**

[Application filed under Section 19 of Insolvency and Bankruptcy Code, 2016 read with Rule 11 of National Company Law Tribunal Rules, 2016]

**In the matter of  
M/s VANTAGE MACHINE TOOLS PRIVATE LIMITED**

**Between:**

**Mr. Immaneni Eswara Rao,  
Resolution Professional of M/s. Vantage Machine Tools Private Limited,  
[IBBI/IPA-001/IP-P01224/2018-19/11943]  
#40-26-22, Mohiddin Street, Chandramoulipuram,  
Vijayawada, Andhra Pradesh – 520010.**

**...Applicant/Resolution Professional**

**AND**

1. Nandamuri Meena Latha (Suspended Director)  
#2-48, Gollapalli Village,  
Nuzvid Mandal, Krishna District,  
Andhra Pradesh – 521111. ...Respondent No. 1
2. Potluri Mohana Murali Kishna (Suspended Director)  
#2-48, Gollapalli Village,  
Nuzvid Mandal, Krishna District,  
Andhra Pradesh – 521111. ...Respondent No. 2
3. Superintendent of Police, CBI,  
Dr. No: 1-83-21/4, Sector 8,  
Opp. Raithu Bazar, CBI Building,  
MVP Colony, Visakhapatnam – 530017. ...Respondent No. 3

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4. CA GV Pratap Kumar,  
Statutory Auditor, Partner in Ghantasala & Co.,  
#3-6-700 & 701, 103 Senate Apts., Street No. 12,  
Himayat Nagar, Hyderabad – 500029. ...Respondent No. 4
5. CA K Kiran Kumar Reddy,  
Statutory Auditor, Partner in Kavadapu & Associates.,  
#1-10-74/5/1, 2<sup>nd</sup> Floor, Chikoti Gardens,  
Begumpet, Hyderabad – 500016. ...Respondent No. 5
6. Potluri Dhana Lakshmana Vara Prasad Rao,  
# 2-48, Gollapalli Village, Nuzvid Mandal,  
Krishna District, Vijayawada – 521111. ...Respondent No. 6

**Date of Order: 20.12.2024**

**CORAM:**

**SHRI RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)**  
**SHRI SANJAY PURI, HON'BLE MEMBER (TECHNICAL)**

**Parties/Counsels Appearance:**

- For Applicant** : Mr. Y. Suryanarayana along with Mr. N.N. Sharma & Mr. Sachin Sharma, Advocates.
- For Respondents 4** : Mr. V. Venkata Rami Reddy and Mr. M Parameswara Reddy, Advocates

**ORDER**  
**[PER: BENCH]**

1. This Application is filed by Mr. Immaneni Eswara Rao, Resolution Professional ('RP') of M/s. Vantage Machine Tools Private Limited ('Corporate Debtor'), under Section 19 of Insolvency and Bankruptcy Code, 2016 read with Rule 11

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of National Company Law Tribunal Rules, 2016, seeking this Tribunal for the following reliefs:

- a. To direct Respondent No. 1 & 2 to immediately furnish all the books of accounts, tally data, accounting vouchers, data, registers, sale deeds, minutes of meeting of board of directors and shareholders and details of assets and all other relevant information, data and documents as sought by the Applicant herein so as to enable the Applicant herein to proceed with proper and effective CIRP of the Corporate Debtor;
- b. To direct Respondent No. 1 & 2 to handover all the assets of the Corporate Debtor to the Applicant herein including the plant and machinery lying at the factory premises of the Corporate Debtor.
- c. To direct Respondent No. 1 & 2 to provide the insurance documents and all other relevant document pertaining to the fire accident that occurred at the premises of the associate concern of the Corporate Debtor.
- d. To direct Respondent No. 4 & 5 to furnish tally data, breakup of various heads under the financial statements and all other relevant records as verified and examined by them during the Statutory Audit of the Corporate Debtor since its incorporation.
- e. To direct Respondent No. 3 to allow the applicant to take photo copies of records of information available with them at their office.
- f. To direct Respondents No. 1, 2, 4 & 5 to extend full co-operation in the ongoing CIRP of the Corporate Debtor under the provisions of the Code.
- g. To direct Respondent No. 6 to provide free entry and exit to the factory premises and not to cause hindrances to the RP team, valuers, forensic auditors, resolution applicants etc., to conduct the CIRP in an effective manner and
- h. To pass such other orders as the Adjudicating Authority may deem fit.

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## 2. The Brief facts of the Application

- a. This Bench, vide order dated 28.11.2022, admitted the application filed by Quality Seeds and Wire Products under Section 9 of the IBC, thereby initiating the CIRP against the CD. Pursuant to the said order, Mr. Immaneni Eswara Rao was appointed as the IRP of the CD. Subsequently, the CoC resolved to continue the IRP as the RP in accordance with the provisions of the IBC.
- b. The Applicant submitted that an email dated 12.12.2022 was sent to the CD intimating the initiation of the CIRP. Subsequently, another email dated 14.12.2022 was sent to the suspended board of the CD requesting the provision of corporate information, secretarial records, financial books, and additional records. The Applicant and its team visited the factory premises of the CD on 10.12.2022 but were denied entry by the security. Upon request by R1 through an email dated 10.12.2022, the Applicant visited the premises on 13.12.2022, and it was revealed that access to the factory premises of the CD was through another entity, M/s. Vantage Spinners Pvt. Ltd.
- c. Further, it was brought to the Applicant's notice that the land on which the CD's factory is located was leased from a related party, Mr. Potluru Dhana Lakshmana Vara Prasad Rao, under a lease deed dated 24.03.2014 for a period of 10 years commencing from 23.03.2013. The lease was cancelled by the lessor through a letter dated 21.09.2019 due to the CD's failure to pay the lease rentals. Owing to the cancellation, the records of the CD were purportedly

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shifted to the premises of the associate concern, which were later destroyed in a fire accident. Additionally, some records of the CD were seized and are presently held by the office of the Superintendent of Police, CBI, Visakhapatnam, following a raid conducted by them.

- d. The Applicant states that emails were sent to the statutory auditors of the CD on 12.12.2022 and 20.01.2023, intimating the initiation of CIRP and requesting information pertaining to the CD. However, the statutory auditors failed to respond. A letter was also sent to the office of the Superintendent of Police, CBI, Visakhapatnam, requesting permission to take photocopies of the records allegedly held by them, as per the claims of R1 & R2. Despite these efforts, no essential information was provided to the Applicant, with R1 & R2 repeatedly citing the fire accident at the premises of the associate concern of the CD on 04.04.2022 as the reason for the unavailability of records.
- e. The Applicant contended that even basic information such as PAN, TAN, GSTIN, and accounting data, typically retained in digital formats, has not been provided, raising doubts about the Respondents' intent to cooperate. It was further noted that the assets of the CD, including plant and machinery and two sheds, continue to lie in the factory premises of the CD, despite the alleged cancellation of the lease. The Applicant emphasized that while records of accounts and other information were purportedly shifted to the associate concern's premises, valuable assets remain

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untouched at the CD's premises. Additionally, the Respondents have failed to provide details of any insurance claims made after the fire accident.

- f. From the above, the Applicant asserted that the Respondents have not demonstrated the required cooperation, making it impossible for the Applicant to effectively carry out the Insolvency Resolution Process without access to the necessary documents and the premises of the CD. This non-cooperation, according to the Applicant, is obstructing the CIRP proceedings.
3. R4, the statutory auditor, filed its counter denying the Applicant's contentions. It is stated that no emails dated 12.12.2022 and 20.01.2023, or any other communications, were received. Respondent No. 4 clarified that the email ID "ghantasala\_234@yahoo.com," referred to by the Applicant, has not been used by their firm as it was hacked years ago. The R4 also submitted that it served as the statutory auditor for the Corporate Debtor from 2015 to 2019 and resigned on 15.07.2019. During its tenure, audits were conducted per ICAI standards, and all allegations against it are denied in their entirety.
4. Heard the submissions made by the Ld. Counsel for the Applicant and Respondent and perused the records submitted.
5. The present Application has been filed by the Resolution Professional of the Corporate Debtor, seeking directions from this Bench against the Respondents to cooperate with the RP to ensure the smooth execution of the Corporate Insolvency Resolution Process. However, this Bench observes that subsequent to the filing of the present IA, the RP has filed IA (IBC) (LIQ)/01/2024, seeking

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the liquidation of the Corporate Debtor under Section 33 of the Insolvency and Bankruptcy Code, 2016 ("the Code").

6. It has been noted by this Bench that the sole resolution plan submitted by the suspended management of the Corporate Debtor was declared non-responsive by the Committee of Creditors. In light of this, the CoC, in its commercial wisdom, resolved to liquidate the **Corporate** Debtor and approved the initiation of the liquidation process under the provisions of Section 33 of the Code. Consequently, the Corporate Debtor has ceased to be under the CIRP, and the resolution process stands concluded. As a result, the prayers sought in the present IA, which aim to secure the Respondents' cooperation for the smooth execution of the CIRP, no longer serve any purpose.
7. Furthermore, it is pertinent to note that upon the approval of the liquidation of the Corporate Debtor by this Bench, the Resolution Professional shall be relieved of their duties and a Liquidator shall be appointed to take charge of the liquidation process. In view of the foregoing, the prayers sought in the present IA have become infructuous and are, therefore, liable to be disposed of.
8. For the reasons stated hereinabove, IA (IBC)/142/2023 stands **dismissed as infructuous**, in light of the subsequent approval of the liquidation of the Corporate Debtor.
9. Accordingly, this application IA (IBC) 142/2023 in CP (IB)/51/9/AMR/2021 is dismissed and stands disposed of.

SANJAY PURI  
MEMBER (TECHNICAL)

Sneha

RAJEEV BHARDWAJ  
MEMBER (JUDICIAL)