



NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH
COURT-IV

17. IA 3285(MB)2024
IA 3612(MB)2024
IN
C.P. (IB)/725(MB)2023

CORAM:

MS. ANU JAGMOHAN SINGH
MEMBER (Technical)

SHRI KISHORE VEMULAPALLI
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON **26.07.2024**

Name of the Party: VSJ Investment Private Limited
Vs
Galore Developers Private Limited

Section 7, 60(5), 22(3)(b) of Insolvency and Bankruptcy Code, 2016

ORDER

1. Mr. Udayraj Patwardhan a/w Ms. Payal Sanghavi, Ld. Authorised Representative for the Applicant and Adv. Nausher Kohli a/w Adv. Astha Ojha & Adv. Jash Shah for the Respondent are present through virtual mode.

IA-3285(MB)2024

2. This is an Application filed u/s 22 and 60(5) of IBC 2016 read with Regulation 22A of IBBI (Insolvency Professionals) Regulations, 2016 and rule 11 of NCLT Rules, 2016 by Interim Resolution Professional (IRP) seeking an appointment of new Resolution Professional in place of the Mr. Ravindra Chaturvedi (IRP).
3. Ld. Authorised Representative for the Applicant/ IRP submits that *vide order dated 09.02.2024*, the Applicant was appointed as IRP. Subsequently, in the first CoC meeting held on 12.03.2024, the CoC has not taken a decision on confirmation of IRP as the Resolution Professional of the Applicant.
4. Ld. Authorised Representative for the Applicant further submits that in the 2nd CoC meeting held on 27.03.2024, again the Applicant was



not confirmed as RP, therefore, the Applicant offered his resignation in the said meeting in accordance with Regulation 22A of IBBI Regulations, 2016. In view of that, the present Application is preferred before the Adjudicating Authority to seek necessary direction. The Applicant further submitted that the CoC voted in favour of confirming the RP with 46.66% and 53.34% voted against the said resolution. Thus, there is a deadlock in the CoC as the Resolution has not got 66% vote.

5. It is submitted that the Regulation 22A of IBBI Regulation, 2016 provides :-

"An insolvency professional may resign from the assignment, subject to the recommendation of the committee of creditors in a corporate insolvency resolution process, consultation committee in liquidation process, the debtor or the creditor in the insolvency resolution process of personal guarantor to the corporate debtor, as the case may be, and the approval of the Adjudicating Authority"

6. In view of the deadlock in the CoC for approving the name of the RP, the incumbent IRP has proposed to resign.
7. Heard the Ld. Authorised Representative for the RP. We observe that there is a deadlock in the CoC on the issue of appointment of RP and no decision had been taken in the two CoC meetings wherein the agenda was discussed. It is therefore expedient to appoint an independent IRP/ RP to break any kind of stalemate between the Financial Creditors. The very object of IB code is to complete the CIRP in the time bound manner and if the dispute with regard to the IRP will continue, the very object of the IB code will get frustrated. Section 7 of the IB Code provides that the Financial Creditor has the prerogative to propose the name of the IRP/ RP and thereafter, they may change it by filing an application under Section 22 of the IB Code. However, in the present case there is a deadlock.



8. The Hon'ble NCLAT in **Company Appeal (AT) (Insolvency) No.786 of 2020** while adjudicating on a similar issue has held that -
“the decision passed by the Adjudicating Authority stating that the Adjudicating Authority have rightly invoked inherent jurisdiction in the fact of the case and passed the impugned order.”
9. Therefore, to end the deadlock between the Financial Creditors, this Bench in exercise of power under Rule 11 of the NCLT Rules, 2016, hereby appoints **Mr. ManojKumar Babulal Agarwal**, Registration No. **(IBBI/IPA-001/IP-P00980/2017-2018/11613)**, **Email- manojagarwal20@gmail.com** as a new Resolution Professional of the Corporate Debtor and directs him to convene the CoC meeting and complete the CIRP as early as possible.
10. This Bench directs the Applicant/ IRP to hand over the entire documents related to the Corporate Debtor to the new RP forthwith.
11. The CoC is directed to clear the requisite fees of the Applicant/ IRP.
12. In view of aforesaid, the present Application is **allowed** and disposed of.

IA-3612(MB)2024

1. This is an Application filed u/s 60(5) by the Applicant to place on record the status of progress report. The same is taken on record in terms of prayer Clause-B.
2. In view of above, the present Application is **Partly allowed** and disposed of.

Sd/-

ANU JAGMOHAN SINGH
Member (Technical)

/Dubey/

Sd/-

KISHORE VEMULAPALLI
Member (Judicial)