

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

IA No. 1177/2024

IN

Company Appeal (AT) (CH) (Ins) No.220/2024

(IA Nos.588, 589, 974 & 1047/2024)

In the matter of:

**Abhijit Bhattacharjee Suspended Director of
the Corporate Debtor M/s. Lumiford Private Ltd
8-2-594/A, Banjara Hills Rd Number 10,
Syed Nagar, Banjara Hills
Hyderabad, Telangana 500034**

....Appellant

V

**1. M/s. COSR VENTURES, (A Registered Partnership Firm)
Plot No.5, D.No.3.;4-17/3,
Vasanta Vihar, Katha Reddy Nagar,
Beside Spencers, Attapur,
HYDERABAD. Ranga Reddy District
Telangana-500 048
Represented by its Managing Partner**

**2. Mr. Gonugunta Murali, having
Registration No. IBBI/IPA-001/IP-P00654/2017-2018/11139, as
Interim Resolution Professional, whose contact details are:
Email-id: gmurali34[at]gmail[dot]com
Address: 16-11-19/4, Saleem Nagar,
Near Farahat Hospital,
Malakpet, Hyderabad,
Andhra Pradesh,500036**

...Respondents

Present :

**For Appellant : Mr. Arvind Nayar, Senior Advocate
For Ms. Priyanka Das**

**For Respondents : Mr. Surya Teja Nalla, Advocate for R1
Mr. Amir Bavani, Advocate**

ORDER
(Hybrid Mode)

11.12.2024:

The Company Appeal was preferred by the Appellant, who is the Suspended Director of Corporate Debtor being aggrieved, as against the Impugned Order of 10.06.2024, passed by the Ld. NCLT, Hyderabad Bench in CP (IB) No.167/9/HDB/2023. The consequential implication, of the Impugned Order under challenge i.e. 10.06.2024, was that, the Ld. Adjudicating Authority had admitted the petition under Section 9 of I & B Code, thereby declaring the moratorium for the purposes referred to under Section 14 of I & B Code.

Aggrieved by this order, the instant appeal has been preferred, and upon the directions issued by the Hon'ble Apex Court, we have considered the stay application, filed by the Appellant and the following orders were passed on 24.10.2024.

*“After hearing the counsel for the parties though the grant of stay has been vehemently opposed by the Respondents Counsel by taking this tribunal to the various covenants of the agreement, which was executed interesting between the parties where the appellant had admitted the default amount which was due to be paid under the terms of the agreement and the settlement which has arrived at between the parties, but, at this stage, we are not making a detailed analysis of the agreements because it may have a bearing on final adjudication exclusively, in the interest of the justice so that, the lis may not be rendered infructuous till the next date fixed i.e., **29.11.2024** only the proceedings as a*

consequence of, would be kept in abeyance. That In pursuance to the order Impugned since the COC had already been constituted the COC is refrained to proceed further.”

If the Interim Order as passed by this Tribunal is taken into consideration, in fact, the direction, which was issued therein was that in pursuance to the Impugned Order, all proceedings as a consequence, would be kept in abeyance including that of, the actions which were supposed to be taken by the CoC. The expression of the Interim Order was quite explicit to the extent of referring that the CoC too, is not to proceed any further in pursuance to the Impugned Order which quite obviously, entails within it that the Resolution professional will not proceed any further in pursuance to the Impugned Order itself. The Resolution Professional has preferred the instant application being IA No. 1177/2024, making a prayer to the following effect. The prayer is extracted hereunder: -

“a. The present Application has been filed by the Applicant/Resolution Professional seeking the direction from this Hon'ble Appellate Tribunal to restrain the Respondent/Erstwhile Management from hindering with the Corporate Insolvency Resolution Process ('CIRP') as per Insolvency and Bankruptcy Code, 2016 ('IBC/Code') till the disposal of the Appeal.

b. Pass any other reliefs/ direction that this Hon'ble Appellate Tribunal may deem fit and proper in the facts of the present case may be passed in favour of the Applicant.”

The nature of the relief which has been sought for, by the Resolution professional, in fact, amounts to nullifying or, at the minimum, diluting the implications of the interim order dated 24.10.2024, already passed by this Tribunal, whereby all proceeding as a consequence of the impugned order, up to the stage of the constitution of the CoC and the consequential actions thereafter had been directed to be kept in abeyance. The direction which has been sought, in the light of the relief as extracted above will amount to, restoring the powers of the Resolution Professional, to conduct the affairs of the Corporate Debtor, which was not the intention expressed by this Tribunal by passing the interim order on 24.10.2024. Accordingly the process of action as pleaded by Resolution Professional will not be resumed, because the order contains that CoC will not proceed further.

In fact, the relief which has been sought for, in the application runs contrary to the spirit of the interim order granted by this Tribunal on 24.10.2024, which stands unchallenged by any of the parties to the proceedings. Thus, the logical consequence, which flows from the interim order would be that, any action which is flowing from the Impugned Order would not be proceeded with, including the actions, which is to be taken by the CoC, after its constitution Quite obviously, the role of the Resolution Professional comes into play only when the Impugned Order is made effective and he contributes in to functioning of the CoC.

Since the implications of the order itself has been kept in abeyance, the relief sought for in the application **IA No. 1177/2024**, cannot be granted. The application lacks merit and the same is accordingly 'rejected'.

List the appeal on **07.02.2025**.

The Interim Order already granted on 24.10.2024, would continue to operate till next date of listing.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

SN/TM/MS