S.No.31

**IN THE NATIONAL COMPANY LAW TRIBUNAL**
**HYDERABAD BENCH – 1**

ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
**26-05-2023** AT **10:30 AM**

**IA (IBC) 231, 264, 1033, 1199, 1488, 1566/2022 & IA (IBC) 753, 521/2023 in CP(IB) No.747/7/HDB/2019**

u/s. 7 of IBC, 2016

**IN THE MATTER OF:**

State Bank of India **…Financial Creditor**

**VS**

Rajvir Industries Ltd **…Corporate Debtor**

**C O R A M:-**
**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)**
**SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

**O R D E R**

**IA 264/2022**

In the light of the order passed in IA 521/2023, we direct the petitioner in IA 264/2022 to make a claim before the newly appointed Resolution Professional and the Resolution Professional to examine the same as per the Provisions of the Code, as expeditiously as possible and not later than 2 weeks.

**IA 521/2022**

Orders pronounced. Recorded vide separate sheets. In the result, we hereby extend CIRP period by 90 days from today. Further, we order that the present Resolution Professional is replaced by newly appointed RP whose details are mentioned in the order. The present Resolution Professional shall handover all the documents etc., pertaining to CIRP, to the newly appointed Resolution Professional within a period of one week from the date of passing of this order. Newly appointed Resolution Professional shall file his consent form as prescribed forthwith and shall complete CIRP as ordered by this Tribunal.

vamshi

**IA 753/2022**

This is an application filed by the prospective Resolution applicant and suspended director of the Corporate Debtor (MSME) for a direction to the 1st and 3rd Respondent to consider the Resolution Plan dated 20.08.2022 on merits and pass orders. The principle grievance of the Petitioner appears to be that despite he being fully eligible to submit Resolution Plan and plan submitted by him is in conformity with the RFRP and other requirements, he has not received any communication from RP regarding the outcome of the voting of his plan. However, discretely came to know that voting on his Resolution Plan has taken place. We found from the record that the then Resolution Pprofessional had not communicated the outcome of the voting on the Applicant's Resolution Plan. In fact on an application filed by the Committee of Creditors, the previous Resolution Professional is also replaced. Needless to say that the prospective resolution applicant is entitled to know the outcome of the voting on the Resolution Plan.

Therefore, we partly allow this application, directing the newly appointed Resolution Professional to communicate the Resolution passed on 20.08.2022 on Resolution Plan submitted by the Applicant, within 2 weeks from the date of this order. Accordingly, this Application is allowed and disposed of.

**IA 1566/2022 in 1199/2022**

Since IA 1199/2022 is dismissed, IA 1566/2022 is also dismissed.

**IA 1488/2022 in 1199/2022**

Since IA 1199/2022 is dismissed, IA 1488/2022 is also dismissed.

**IA 1199/2022**

In the light of the pass orders in IA 521/2023 wherein we extend CIRP period. Hence IA is dismissed.

**IA 1033/2022**

For hearing, matter adjourned to 19.06.2023.

**IA 231/2022**

Pleadings completed. For hearing call on 19.06.2023.

SD/-
**MEMBER (T)**

SD/-
**MEMBER (J)**

vamshi

**IN THE NATIONAL COMPANY LAW TRIBUNAL**
**HYDERABAD BENCH – I**

**IA.No.521 OF 2023**
**in**
**CP (IB) No. 747/7/ HDB/2019**

*Under section 12 read with section 27 read with section 60(5) of the I&B Code, 2016, read with Rule 11 of the NCLT Rules, 2016.*

**IN THE BETWEEN :**

**State Bank of India**
**Stressed Asset Management Branch**
Secunderabad
(4106), 5-9-76, 2nd Floor
Prabhat Towers
Chapel Road, Gun Foundry
Hyderabad – 500 001.

**.. Applicant**
**Financial Creditor**

**And**

**Taduvi Sivanagarja (TSN Raja)**
Resolution Professional
M/s Rajvir Industries Limited
Plot No.161 (11-20-18)
Shop cum flat, HUDA Complex
Kothapet
Hyderabad – 500035 (TS)

**.. Respondent**
**Resolution Professional**

**In the matter of**

**State Bank of India .. Financial Creditor**

**Versus**

**M/s Rajvir Industries Limited .. Corporate Debtor**

**Date of Order: 26.05.2023**

**CORAM:**

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA**
**HON'BLE MEMBER (JUDICIAL)**

**SHRI CHARAN SINGH**
**HON'BLE MEMBER (TECHNICAL)**

**PARTIES/COUNSELS APPEARANCE:-**

For Applicant : Shri Yash Vardhan, Advocate for M/s India Law LLP

For Resolution Professional: Shri TSN Raja.

**PER: BENCH**

**ORDER**

This Application is filed by the applicant/ Financial Creditor/ State Bank of India seeking relief against Resolution Profession of M/s Rajvir Industries Ltd as under:

> "*(A) This Hon'ble Tribunal be pleased to extend CIRP period by 90 days from the date of passing of the order in the captioned Interim Application.*
> *(B) This Hon'ble Tribunal be pleased to replace the Resolution Professional Mr. Taduvi Sivanagaraja and appoint Mr. Dantu Indu Sekhar bearing Registration No.IBBI/ IPA/-003/ IPA-ICAI-N-*

*00233/ 2019-2020/ 12773 as Resolution Professional of the Corporate Debtor.*"

2. The applicant is the Financial Creditor and lead member of Consortium of lenders of Corporate Debtor, viz. Axis Bank, ICICI Bank, IDBI and Central Bank of India. The respondent herein is the Resolution Professional of the Corporate Debtor.

3. Averments made in the application are:

(i) The application filed under section 7 of the Code has been admitted by the Tribunal vide order dated 26.04.2021. IRP appointed vide the said order has been confirmed as Resolution Professional vide order dated 26.05.2021.

(ii) In response to Form-G dated 24.06.2021 and revised Form-G dated 07.07.2021, thirteen Expressions of Interest (EOI) have been received by the Resolution Professional. Even suspended Directors of the Corporate Debtor have submitted EOI, which was rejected by the Resolution Professional under section 29A of the Code on the grounds mentioned in clauses (a), (b), (c) and (d) of para 6 of the IA. One of the suspended Directors, viz. Ritesh Kumar Agarwal has filed IA No.370 of 2021 challenging rejection of EOI. During the pendency of said IA, on 23.02.2022, SBI/ Financial Creditor has declared the applicant of IA

No.370 of 2021 and others as wilful defaulters on 23.02.2022. IDBI had also declared them wilful defaulter on 08.11.2021.

(iii) Meeting of 23rd CoC was held on 06.04.2022, wherein the Resolution Professional has placed the following:

- E-voting results on rejection of Resolution Plans by the CoC.
- Requirement of filing an application under section 33 of the Code, seeking liquidation of the Corporate Debtor.
- Resolution for sharing shortfall in liquidation cost,
- Resolution to dispose of the Corporate Debtor as a going concern.
- Resolution to continue the Resolution Professional as Liquidator.

The CoC passed resolution with more than 66% voting for rejection of resolution plans

(iv) Accordingly, the Resolution Professional has filed IA No.375 of 2022 before this Tribunal seeking liquidation of the Corporate Debtor.

(v) IA No.370 of 2021 filed earlier has been allowed directing the Resolution Professional to receive Resolution Plan submitted by the suspended Directors and place the same before the CoC.

(vi) The suspended Directors of the Corporate Debtor have challenged the actions of the applicant/ SBI and other lenders declaring them as wilful defaulters by filing Writ Petition No.36551 of 2022 and other petitions in

the Hon'ble High Court of Telangana. The Hon'ble High Court vide order dated 12.10.2022 (ANNEXURE-1) directed the banks not to take further steps pursuant to order dated 08.11.2021 passed by the Wilful Defaulter Review Committee of IDBI. The Hon'ble High Court has not quashed the said declaration, and the said order was extended till 15.03.2023.

(vii) Vide order dated 29.09.2022, IA No.375 of 2022 for liquidation of the Corporate Debtor has been dismissed, in light of order passed in IA No.370 of 2021.

4. **GROUNDS FOR EXTENSION OF CIRP:**

(A) Application filed under section 7 of the Code has been admitted by the Tribunal vide order dated 26.04.2021. CIRP having commenced on **26.04.2021**, mandatorily resolution ought to have been completed within 330 days, viz. on **19.03.2022**. The applicant/ Financial Creditor has relied on decision of the Hon'ble Supreme Court in Committee of Creditors of Essar Steel India Ltd through Authorised Signatory Vs. Satish Kumar Gupta & others, Civil Appeal No.8766-67 of 2019 and others, wherein it was held:

> "*Thus, while leaving the provision otherwise intact, we strike down the word "**mandatorily**" as being manifestly arbitrary under Article 14 of the Constitution of India and as being an excessive and unreasonable restriction on the litigant's right to carry on*

> *business under Article 19(1)(g) of the Constitution. The effect of this declaration is that ordinarily the time taken in relation to the corporate resolution process of the corporate debtor must be completed within the outer limit of 330 days from the insolvency commencement date, including extensions and the time taken in legal proceedings. However, on the facts of a given case, if it can be shown to the Adjudicating Authority and/or Appellate Tribunal under the Code that only a short period is left for completion of the insolvency resolution process beyond 330 days, and that it would be in the interest of all stakeholders that the corporate debtor be put back on its feet instead of being sent into liquidation and that the time taken in legal proceedings is largely due to factors owing to which the fault cannot be ascribed to the litigants before the Adjudicating Authority and/or Appellate Tribunal, the delay or a large part thereof being attributable to the tardy process of the Adjudicating Authority and/or the Appellate Tribunal itself, it may be open in such cases for the Adjudicating Authority and/or Appellate 132 Tribunal to extend time beyond 330 days. Likewise, even under the newly added proviso to Section 12, if by reason of all the aforesaid factors the grace period of 90 days from the date of commencement of the Amending Act of 2019 is exceeded, there again a discretion can be exercised by the Adjudicating Authority and/or Appellate Tribunal to further extend time keeping the aforesaid parameters in mind. It is only in such exceptional cases that time can be extended, the general rule being that 330 days is the outer limit within which resolution of the stressed assets of the corporate debtor must take place beyond which the corporate debtor is to be driven into liquidation*."

It is submitted that the Hon'ble NCLAT in its judgment dated 16.02.2022 in Vinod Tarachand Agarwal, Resolution Professional of Mayfair Leisures Ltd, Company Appeal (AT) (Ins) No.637 of 2021, has placed reliance on the judgement of the Hon'ble Supreme Court in CoC of Essar Steel India Ltd (supra) and observed that when there is likelihood for

reviving the Corporate Debtor, necessary extension of CIRP can be granted to fulfil the objective of the Code.

(B) SBI has addressed e-mail communication dated 02.03.2023 (ANNEXURE-13) to the Resolution Professional requesting him to share outcome on resolutions (2nd e-voting voted upon from 24.02.2023. The Resolution Professional replied a report will be filed before the tribunal. JLM meeting was held on 14.03.2023 to decide further course of action with respect to CIRP of the Corporate Debtor. In the said meeting SBI has informed the members of the CoC that Prospective Resolution Plans (PRAs) who missed a chance during the CIRP have expressed interest in reviving the Corporate Debtor. Thus, there is a chance for revival and resolution.

5. **GROUNDS FOR REPLACEMENT OF RESOLUTION PROFESSIONAL**:

(A) The applicant submits that the Resolution Professional had acted in a manner contrary to the letter and spirit of the Code and the Rules and Regulations framed under the Code. The applicant/ Financial Creditor / SBI is primarily aggrieved by the following actions/ inactions of the Resolution Professional:

(B) One of the lead members of Consortium of lenders of Corporate Debtor, namely, IDBI has not approved the stand taken by the Resolution Professional in the meeting held on 25.08.2022 and it had informed the Resolution Professional that they were yet to receive Minutes of 25th Meeting of COC. IDBI has requested the Resolution Professional vide email dated 20.10.2022 (ANNEXURE-3) to clarify about filing of IA No.375 of 2022 and filing of IA for restoration of IA, etc. However, the Resolution Professional chose not to reply.

(C) The applicant/ SBI addressed email 20.10.2022 (ANNEXURE-4) requesting the Resolution Professional to convene meeting of the CoC to immediately discuss certain issues. However, the Resolution Professional chose not to respond.

(D) The applicant/ SBI sent an e-mail dated 27.10.2022 to the Resolution Professional attaching a letter dated 20.10.2022 received from ex-promoter to consider his resolution plan. It is marked as Annexure-5 of this IA. By the said letter the Resolution Professional was requested to convene meeting of the CoC without delay to discuss certain issues. In response thereto the Resolution Professional has furnished copy of IA No.1199 of 2022 on 28.10.2022. On perusal of the same it was learnt that

the Resolution Professional has filed the said IA on 21.10.2022 seeking liquidation of the Corporate Debtor.

(E) The applicant submits that said IA No.1199 of 2022 for liquidation has been filed without consent or confirmation of the CoC. No resolution is passed by the CoC in any of its meetings. Even the Resolution Professional failed to provide Minutes of 25th Meeting of the CoC.

(F) In order to bring the irregularities of the Resolution Professional to the attention of this Tribunal and to implead the applicant in IA No.1199 of 2022, the applicant has filed IA No.1566 of 2022. Even IDBI Bank has also filed application IA No.1488 of 2022 in IA No.1199 of 2022 for impleading them. This Tribunal has passed order dated 12.12.2022 (ANNEXURE-6) in the said IA, to conduct CoC meeting with the agendas mentioned in the order. However, the Resolution Professional did not comply with the directions of this Tribunal contained in Order dated 22.12.2022 (Annexure-6).

(G) The Resolution Professional proceeded with conducting 26th CoC meeting on 22.12.2022. Minutes of the 26th CoC Meeting dated 23.12.2022 circulated on 24.12.2022 are at ANNEXURE-7.

(H) Joint Lenders' Meet (JLM) was held on 14.02.2023, wherein replacement of Resolution Professional was discussed. Creditors were

also in agreement to replace the Resolution Professional with Shri Dantu Indu Sekhar as new Resolution Professional. Copy of Minutes of Meeting of JLM dated 14.02.203 are at ANNEXURE-10. Written consent of Shri Dantu Indu Sekhar dated 17.03.2023 is at ANNEXURE-15.

(I) This Tribunal issued directions vide order dated 16.02.2023 (ANNEXURE-11) in IA No.1199 of 2022, to the Resolution Professional to convene a CoC meeting with the agenda as directed by this Tribunal.

(J) CIRP, under the present Resolution Professional, is marred with litigations and significant amount was spent on litigations. Hence change of Resolution Professional is required.

**6.** THE RESOLUTION PROFESSIONAL HAS FILED COUNTER DATED 13.04.2023.

The Resolution Professional has given detailed chronology rather than refuting the allegations levelled by the applicant in the application point-wise or subject-wise. The defence put forth by the Resolution Professional and his primary submissions are as under:

(i) The CoC is seeking extension of CIRP **710 days after CIRP** was ordered. So also change of Resolution Professional. Reasons assigned for

the same are baseless. The only option left is to take the Corporate Debtor into liquidation.

(ii) CoC upheld that the suspended management is not eligible to submit a Resolution Plan.

(iii) When this Adjudicating Authority has directed the CoC to vote, the CoC members abstained in voting on a resolution recommending the Corporate Debtor into liquidation.

(iv) Resolution Plans, four in number, have been rejected by the CoC, after conducting negotiations under the provisions of the Code.

(v) The Resolution Professional has relied on Ms. Rama Subramaniam Vs. Sixth Dimensions Project Solution Limited, wherein NCLT, Mumbai vide order dated 13.03.2019 in M.A. No. 1626/2018 In C.P. No. 587/I&BP/2018, observed that:

> "5. .. .. *and the COC has no absolute power to change the IRP / RP at their whims and fancies without any valid or tenable reasons.*"

(vi) The Resolution Professional submitted that the CoC has advised the Resolution Professional to discontinue operations. There is no response to the request of contributions of shortfall of the CIRP cost. No salaries were paid to the employees for more than three months and half salaries were paid for more than seven months. Payments to security is also being

rationed. The Financial Creditors are not responding to the request for contributing to the shortfall in the CIRP cost.

(vii) The Resolution Professional has further submitted that CIRP dues, as on 31.03.2023, were about RS.2.63 crores. Statement detailing CIRP dues is at ANNEXURE-1 of his Counter. There is no response to the mails of the Resolution Professional.

In view of the above submissions the Resolution Professional requests that this IA be dismissed and IA No.1199 of 2023 filed by the Resolution Professional for liquidation be decided.

**7. THE RESOLUTION PROFESSIONAL HAS FILED WRITTEN ARGUMENTS DATED 01.05.2023,** claiming the following, inter alia, achievements:

(i) The Resolution Professional has continued operations of the Corporate Debtor as a 'going concern' and made available funds of Rs.5 crores from the date of initiation of CIRP, viz. 26.04.2021 to 09.04.2022.

(ii) There is neither unpaid amount to any service utilised nor any additional liability created on the Corporate Debtor.

(iii) Liability towards employees of about Rs.30 lacs was cleared during the CIRP period with the approval of the CoC.

**8.** In the light of the contest as above, the points that emerge for our consideration are:

**POINTS**:

(1) Whether to go for replacement of the existing Resolution Professional?

(2) Whether to allow for a fresh round of resolution process with other resolution professional and thus allow extension of CIRP period as prayed for or go for liquidation as contemplated by resolution professional?

**9.** We have heard Shri Yash Vardhan, learned counsel for M/s India Law LLP for the applicant and Shri TSN Raja, learned Resolution Professional/ respondent. Perused the record, Counter and Written Arguments filed by the Resolution Professional before us.

**POINT No 1:**

**Whether to go for replacement of the existing Resolution Professional?**

(i) Section 27 (1) (2) of I&B Code, 2016 deals with replacement of resolution professional by COC which reads as under:

> "***27. Replacement of resolution professional by committee of creditors***. –
> *(1) Where, at any time during the corporate insolvency resolution process, the committee or creditors is of the opinion that a resolution professional appointed under section 22 is required to be replaced, it may replace him with another resolution professional in the manner provided under this section.*
> (2) *The committee of creditors may, at a meeting, by a vote of sixty-six per cent of voting shares, resolve to replace the resolution professional appointed under section 22 with another resolution professional, subject to a written consent from the proposed resolution professional in the specified form.*"

(ii) It is abundantly clear from the above provision that power to change resolution professional is with CoC with 66% and above voting but COC meeting as per Section 24 (2) and (3) read with Section 25(2) f of IBC, 2016 is to be convened and conducted by the resolution professional. The relevant sections as referred above are reproduced below for ready reference:

> "***24. Meeting of committee of creditors.***
> *(1) .. .. .. ..*
> *(2) All meetings of the committee of creditors shall be conducted by the resolution professional.*
> *(3) The resolution professional shall give notice of each meeting of the committee of creditors to-*
> *(a) members of 1 [committee of creditors, including the authorised representatives referred to in sub-sections (6) and (6A) of section 21 and sub-section (5)];*

*(b) members of the suspended Board of Directors or the partners of the corporate persons, as the case may be;*
*(c) operational creditors or their representatives if the amount of their aggregate dues is not less than ten per cent. of the debt."*

*"**25. Duties of resolution professional.** –*
*(1) .. .. ..*
*(2) For the purposes of sub-section (1), the resolution professional shall undertake the following actions, namely: -*

*(a) take immediate custody and control of all the assets of the corporate debtor, including the business records of the corporate debtor;*
*(b) represent and act on behalf of the corporate debtor with third parties, exercise rights for the benefit of the corporate debtor in judicial, quasi-judicial or arbitration proceedings;*
*(c) raise interim finances subject to the approval of the committee of creditors under section 28;*
*(d) appoint accountants, legal or other professionals in the manner as specified by Board;*
*(e) maintain an updated list of claims;*
*(f) convene and attend all meetings of the committee of creditors;*
*(g) prepare the information memorandum in accordance with section 29;*
*(h) invite prospective resolution applicants, who fulfil such criteria as may be laid down by him with the approval of committee of creditors, having regard to the complexity and scale of operations of the business of the corporate debtor and such other conditions as may be specified by the Board, to submit a resolution plan or plans.*
*(i) present all resolution plans at the meetings of the committee of creditors;*
*(j) file application for avoidance of transactions in accordance with Chapter III, if any; and*
*(k) such other actions as may be specified by the Board."*

(iii) The issue in the present case is that resolution professional is not convening and conducting the COC meeting for replacement of himself and contrary to that he has filed an application for liquidation of corporate debtor and continuing him as liquidator. Since, resolution professional is not ready to conduct the COC meeting, the lenders called Joint Lenders' Meet (JLM) on 14.03.2023 and resolved to replace resolution professional along with other resolutions. On the strength of resolution passed in the JLM as referred above, one of the Financial Creditors/ State Bank of India, Stressed Asset Management Branch, Secunderabad filed this application for replacement of resolution professional and seeking extension of CIRP period. The applicant has filed copy of Minutes of Joint Lenders' Meet (JLM) held on 14.03.2023, and the last paragraph of the Minutes is reproduced as under:

> "*All the lenders unanimously resolved as under:*
>
> *To file an I.A. for change of Resolution Professional.*
>
> *To appoint Mr. Indu Sekhar as new Resolution Professional in place of current Resolution Professional Shri T.S.N. Raja.*
>
> *To file an I.A. seeking extension in CIRP period.*
>
> *The meeting ended with vote of thanks.*"

Now, the question before us is that whether resolution for change of resolution professional in JLM instead of COC as provided in law is

maintainable and can be allowed. We observe that all voting members of COC were present in JLM and only resolution professional and ex management member who have no voting rights in COC were not present in JLM. In view of the presence of all voting members in JLM, it can be construed that all voting members of COC have given their approval for change of resolution professional. In our view the main requirement of law that 66% of voting members of COC should give consent to change the resolution professional is met by approval given in JLM and hence it can be considered a valid resolution to change resolution professional.

(iv) Therefore, we are of the view that considering the differences crept in between the Resolution Professional and the Financial Creditors and various pending litigations and also keeping in view the facts as discussed above, we are of the view that change of Resolution Professional is essential for smooth completion of CIRP, which is already delayed too much. The learned counsel for applicant has also submitted in his oral submissions that though they have recommended name of resolution professional to be appointed in case of replacement but the purpose is not to appoint any particular resolution professional but to change the current resolution professional for smooth completion of CIRP. Therefore, if the Resolution Professional proposed by the applicant is not appointed and some other Resolution Professional is appointed by the Tribunal from the panel of Insolvency Professionals, the applicant has no objection to it.

**Point No (2)**

**Whether to allow for a fresh round of resolution process with other resolution professional and thus allow extension of CIRP period as prayed for or go for liquidation as contemplated by resolution professional?**

In the above said JLM dated 14.02.2023, it was submitted by the applicant that:

> " .. .. *the Corporate Debtor has generated some interest among prospective resolution applicants, who missed the bus during the CIRP period. Also, resolution applicants who had participated in the resolution process have sent feelers that they may come up with a better resolution plan if the process is re-run. The resolution process run under the current RP was marred by litigations and significant amount of time was lost in litigations. Though extensive negotiations were made by the CoC with resolution applicants, as the environment was not conducive to proper negotiations, it did not result in better price discovery and as a result all the plants were rejected by the lenders. In view of indications from potential Resolution Applicants for a better plan, the re-run of the process will be productive if the same is done under new Resolution Professional as the current RP's approach is negative and not in the interest of stakeholders.*
>
> *Hence SBI in consultation with lenders requested the RP to convene a CoC.*
>
> - *To discuss on prospective resolution applicants.*
> - *Explore the possibility of seeking extension in CIRP period from NCLT.*
> - *Change of Resolution Professional.*
>
> *However,, RP responded that the CIRP period concluded in April 2022 and CoC meeting cannot be called for, unless directed by the*

*Hon'ble Adjudicating Authority and advised to seek appropriate direction from NCLT in the next hearing scheduled on 20.03.2023.*

*As RP was not ready to convene CoC, SBI decided to discuss on the above issues in JLM and proposed for change of Resolution Professional as decided in the JLM dated 14.02.2023. Mr. Indu Sekhar was proposed as new Resolution Professional in place of current Resolution Professional Shri TSN Raja and also proposed to seek extension of CIRP period from Hon'ble NCLT.*"

The applicant in the meeting has placed before the members that there is a possibility of getting some resolution plan and we do not find any reason to doubt the submission of applicant before JLM. If that be so, one of the main objectives of CIRP to resolve the corporate debtor as a going concern will be achieved. The applicant has raised objection on filing of IA No.1199 of 2022 by Resolution Professional for liquidation of the Corporate Debtor without the consent or confirmation of the CoC. Section 33(2) of IBC, 2016 clearly stipulate that decision of the COC (approved by not less than 66% of voting share) is required to liquidate the corporate debtor during the corporate insolvency resolution process. The said section is reproduced below:

"***Initiation of Liquidation***.
*33 (2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors 1 [approved by not less than sixty-six per cent. of the voting share] to liquidate*

*the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).*"

**10.** Though, CIRP period has got extended beyond reasonable time in this case but considering the above facts and keeping in view the larger objective of resolution of corporate debtor as a going concern, we are convinced to give one more chance to start the resolution process again with a new resolution professional. Therefore, we decide for extension of CIRP period by 90 days.

**11.** Therefore, we allow the application in part and order as under:

(1) We extend CIRP period by 90 days from the date of passing of this order.

(2) We order that present Resolution Professional, **Shri Taduvi Sivanagarja (TSN Raja)** be replaced with **Shri Kalvakolanu Murali Krishna Prasad** as Resolution Professional, whose details are as under:

| | | |
|---|---|---|
| IBBI No. | .. | IBBI/IPA-001/IP-P00967/2017-2018/11588 |
| e-mail ID | .. | kmk123ip[at]gmail[dot]com |
| Address | .. | 8-27, Jillelguda, Mythripuram Colony<br>Vyshalinagar, PO<br>Hyderabad ,West Marredpally<br>Telangana. PIN: 500079. |

AFA valid upto .. 24th November 2023.

(3) The present Resolution Professional to hand over all the documents, papers, etc. pertaining to CIRP of the Corporate Debtor to new Resolution Professional within a period of one week from the date of passing of this order.

(4) The applicant to inform new Resolution Professional, Shri Kalvakolanu Murali Krishna Prasad about his appointment and take his consent on the prescribed form and submit the same with the Registry of this Tribunal within three days.

**12.** With the above orders this application is disposed of.

| **Sd/-** | **Sd/-** |
|---|---|
| CHARAN SINGH | DR. VENKATA RAMAKRISHNA BADARINATH NANDULA |
| MEMBER (TECHNICAL) | MEMBER (JUDICIAL) |

*karim*