

(2020) 07 NCLT CK 0132

In the National Company Law Tribunal

Case No : Interlocutory Appeal No. 203 Of 2020 In Company Petition (IB) No. 307/Bb Of 2019

In Re: Surender Devasani, Interim Resolution Professional Vs

Date of Decision : 01-07-2020

Acts Referred:

Insolvency And Bankruptcy (Application To Adjudicating Authority) Rules, 2016 — Rule 4

Insolvency And Bankruptcy Code, 2016 — Section 7, 22, 22(3), 53, 60

Citation : (2020) 07 NCLT CK 0132

Hon'ble Judges : Rajeswara Rao Vittanala, J; Ashutosh Chandra, Member (Technical)

Bench : Division Bench

Final Decision : Disposed Of

Judgement

Rajeswara Rao Vittanala, J

1. The interim Application bearing I.A.No.203/2020 in C.P.(IB)No. 307/BB/2019 is filed by Shri Surender Devasani, Interim Resolution Professional of M/s. Alfapeople IT Services Pvt. Ltd. ('Applicant'), U/s. 60 R/w. 22(3) of IBC 2016, by inter-alia seeking to confirm the appointment of Shri Surender Devasani, Interim Resolution Professional, having IBBI Reg. No. IBBI/IPA-001/IP-P00775/2017-2018/11348 as Resolution Professional of the Corporate Debtor, as per the decision taken by the Committee of Creditors (CoC) in its 1st meeting dated 16.06.2020.

2. Brief facts of the case, as mentioned in the Application, which are relevant to the issue in question, are as follows:

(1) The main Company Petition filed by M/s. Learning Candid India Pvt. Ltd. (Petitioner/Financial Creditor), U/s. 7 of IBC, 2016 R/w. Rule 4 of I&B (AAA) Rules, 2016, by inter alia seeking to initiate CIRP in respect of the M/s. Alfapeople IT Services Pvt. Ltd., (Respondent/Corporate Debtor), on the ground that it has committed default for total amount of Rs. 12,98,467/-, and it was admitted by this Adjudicating Authority, vide Order dated 05.02.2020 ('Admission

Order') by initiating CIRP; appointing Shri Surender Devasani as IRP; imposing moratorium, etc.

(2) It is stated that on 08.03.2020, the Applicant had notice that the said Application/Petition against the Corporate Debtor was admitted by this Adjudicating Authority on 05.02.2020. As considerable time had lapsed, IRP filed an I.A.No. 136/2020 on 09.03.2020, wherein seeking for revalidation of the admission order date, and it was dismissed by this Adjudicating Authority, vide Order dated 21.05.2020, (owing to lockdown on account of COVID-19), by directing the IRP to stick to the timelines prescribed by IBBI, as per the said admission order. Accordingly, the IRP caused a Public Announcement in Form-A on 22nd May, 2020 in two newspapers namely "Financial Express" (English) and "VarthaBharathi" (Kannada), and intimated the creditors regarding the Commencement of CIRP against the Corporate Debtor and called upon the creditors to file their claims within the prescribed time limit.

(3) During the first meeting of CoC was held on 16.06.2020, through Video Conference, the status of the claims received and admitted was presented to the CoC, and the Expenses incurred during the Interim Resolution period amount to Rs. 1,38,752/- were approved/ratified by the CoC. As required under the provisions of Section 22 of IBC, the appointment of Resolution Professional, the CoC has passed the resolution unanimously with 100% voting shares, wherein, it is inter alia, approved for appointment of Shri Surender Devasani, IRP to continue as Resolution Professional to conduct the CIRP proceedings in respect of the Corporate Debtor, with a remuneration of Rs. 1,20,000/- (Rupees One Lakh Twenty Thousand only) + GST (exclusive of out of pocket expenses) per month; and for funding of CIRP cost by Financial Creditors which will form part of Resolution Cost to be reimbursed to the Bank on priority basis as per Section 53 of the IBC, 2016.

3. Heard Shri Surender Devasani, learned IRP, through Video Conference. We have carefully perused the pleadings of the party and extant provisions of the Code and the Rules made thereunder.

4. The instant Application is found to be filed strictly in accordance with law, and the Resolution confirming the Interim Resolution Professional as Resolution Professional with monthly remuneration of Rs. 1,20,000/- + GST (exclusive of out of pocket expenses) p.m., was passed by the CoC with the requisite majority, under the provisions of Code. Therefore, the instant Application deserves to be disposed of.

5. Hence, I.A.No.203/2020 in C.P.(IB)No.307/BB/2019 is hereby disposed of confirming Shri Surender Devasani, IRP, as Resolution Professional of the Corporate Debtor with monthly remuneration of Rs. 1,20,000/- + GST (exclusive of out of pocket expenses) p.m., and he is directed to expedite the CIRP.