



The Sirpur Paper Mills Ltd.

SIRPUR-KAGHAZNAGAR-504 296, DIST. KOMARAMBHEEM ASIFABAD (T.S.) INDIA
CIN : L21010TG1938PLC000591

1st August 2018

(Electronic filing/confirmatory copy through Speed Post)

1. Department of Corporate Services/Listing BSE Limited
Phiroze Jeejeebhoy Towers,
Dalal Street, Fort,
Mumbai – 400 001
2. National Stock Exchange of India Ltd.
"Exchange Plaza" Bandra-Kurla
Complex, Bandra (E),
Mumbai – 400 051

Scrip Code No. 502455

Symbol: SIRPAPER

Series : EQ

Dear Sir/Madam,

Re: Delisting of the shares of The Sirpur Paper Mills Limited under Regulation 3(3) of the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009 pursuant to approval of the resolution plan of JK Paper Limited by the Hon'ble National Company Law Tribunal, Hyderabad on 19th July 2018.

1. This is in furtherance to the intimation and disclosure of delisting of the shares of The Sirpur Paper Mills Limited ("**SPML/Company**"), ref no SPM/SH/801 dated 20th July, 2018.
2. It is submitted that sub-regulation (3) was inserted to Regulation 3 of the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009 ("**Delisting Regulations**"), pursuant to the Securities and Exchange Board of India (Delisting of Equity Shares) (Amendment) Regulations, 2018 dt. 31st May 2018 ("**Exemption Notification**"), declaring that the Delisting Regulations shall not apply to delisting of equity shares of a listed entity made pursuant to a resolution plan approved under Section 31 of the Insolvency and Bankruptcy Code, 2016 (as amended) and the regulations issued thereunder ("**Code**").
3. SPML is a company which was incorporated with CIN L21010TG1938PLC000591.
3. The Corporate Insolvency Resolution Process ("**CIRP**") in terms of the the Code was commenced against SPML pursuant to the orders of the Hon'ble Hyderabad Bench of National Company Law Tribunal ("**NCLT**"), dated September 18, 2017 for the revival of the Company. The Committee of Creditors ("**CoC**") of the Company appointed Mr. Ram Ratan Kanoongo as Resolution Professional ("**RP**") as per the provisions of the Code.
4. Pursuant to the invitation published by the RP, JK Paper Limited ("**Resolution Applicant**") had submitted a resolution plan for the Company. The CoC of the Company approved the Resolution Plan submitted by JK Paper Limited. The said Resolution Plan was thereafter submitted by the RP with the NCLT for its approval under the Code.



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5. The NCLT has, on 19th July 2018, approved the resolution plan submitted by JK Paper Limited for the Company ("**Approved Resolution Plan**"). The Resolution Plan, as approved by the NCLT, is binding on the Company, its employees, members, creditors, guarantors and all other stakeholders involved, as per the provisions of the Code.

6. Delisting of shares of SPML

- (a) The Approved Resolution Plan, *inter alia*, provides in Clause 3 of Part A as follows:

"3. In the estimate of the Resolution Applicant, the verified claims of Secured Financial Creditors are more than the aggregate Liquidation Value and consequently, the proportionate liquidation value for the operational creditors (other than workmen's dues for the period of 24 months preceding the IC Date) including claims from the government, government agencies, and all other claims, debts and dues, and the shareholders is 'nil'."

- (b) Since the liquidation value payable to equity shareholders of SPML in the event of liquidation of SPML is 'nil', the Approved Resolution Plan further provides in Clause 7.7 thereof as follows:

"7.7 If the Corporate Debtor were to be liquidated, the amount that would be payable to equity shareholders would be nil, as Section 53 of the Code, lists amounts due to equity shareholders at eighth position in the order of priority. In the estimate of the Resolution Applicant, the Liquidation Value that is payable to the shareholders, is also nil. The existing shareholders, whether equity or preference, shall not be paid any amount for the cancellation and reduction of their share capital and any claims in relation thereto shall stand extinguished without any payment or recourse."

- (c) The Approved Resolution Plan also, *inter alia*, provides in Clause 22.2 thereof as follows:

"22.2

(c)(ii) On the Completion Date, the Corporate Debtor shall undertake a capital reduction and cancellation of its entire existing equity shareholding whereby the entire equity share capital of the Corporate Debtor shall stand cancelled without the requirement of writing the words "and reduced" in the corporate name and style of the Corporate Debtor. A simultaneous reissue of equity shares and preference shares shall occur simultaneously in accordance with sub-clause (d).

(c)(iii) For the purpose hereof, in addition to the procedure set out in Clause 22.2(d)(iv), the following shall also apply to cancellation of shares and capital reduction,:

(A) the cancellation shall be applicable to all shareholders of the Corporate Debtor;

(B) the cancellation shall not require any payment by the Corporate Debtor to any of the shareholders;



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- (C) the cancellation shall be pursuant to the order of the NCLT and shall not require any other procedure as required under the Companies Act, including that under Section 66 of the Companies Act or regulations of the SEBI;
- (D) shall not require the consent of any of the creditors of the Corporate Debtor or approval of the shareholders of the Corporate Debtor, as the Resolution Plan, upon being approved by the NCLT shall be binding on the Corporate Debtor and its stakeholders (including its creditors and shareholders), and in addition in accordance with the October 25 Circular, approval of the shareholders/members of the corporate debtor/company, which would have been required under Companies Act, 2013 or any other law if the resolution plan was being considered outside the scope of the Code, shall not be required for cancellation and issuance of shares and any other action under the Resolution Plan for its implementation."
- (d) The explanation to Section 30(2)(f) of the Code inserted by the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018 provides as under ::
- "Explanation- For the purposes of clause (e), if any approval of shareholders is required under the Companies Act, 2013 (18 of 2013) or any other law for the time being in force for the implementation of actions under the resolution plan, such approval shall be deemed to have been given and it shall not be a contravention of that Act or law."*
7. The Approved Resolution Plan, therefore, contemplates a specific procedure whereby the entire share capital (whether equity or preference) of SPML stands cancelled and no amount is to be paid for the cancellation and reduction of the share capital and any claims in connection thereto shall extinguish without any payment or recourse. The exit of all existing shareholders of SPML has been done pursuant to the fact that the shareholders' share price is nil or negative, after paying off dues in accordance with Section 53 of the Code. It is hereby pointed out that if SPML were to be liquidated, all shareholders, whether equity or preference, would get nil value and consequently, the question of providing an exit option at any value or upon payment of a price does not arise at all.
8. The Approved Resolution Plan contemplates a limit on liability in Clause 11 thereof as follows:
- "Notwithstanding anything contained in this Resolution Plan, in no event the total payments by the Resolution Applicant or the Corporate Debtor to its stakeholders, for claims relating to a period prior to the Completion Date (including claims recognised in this Resolution Plan and claims that may arise in future), shall exceed ₹166,04,00,000 (Rupees One Hundred and Sixty Six Crores Four Lakhs) and other than pursuant to Clause 22.2 of this Resolution Plan, the Corporate Debtor shall not issue any further securities to the Secured Financial Creditors."*
9. The Board of Directors of the Company was reconstituted on 1st August 2018 as per the Approved Resolution Plan.



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10. The reconstituted Board of Directors at its meeting held on 1st August 2018 (defined as the Completion Date in the Approved Resolution Plan), cancelled the existing equity capital of the Company (pursuant to the Approved Resolution Plan) and issued and allotted 70 (seventy) equity shares of face value of INR 10 (Rupees Ten only) each to seven shareholders for the continued operations of the Company as a public limited company. Consequent upon cancellation of the equity capital by the reconstituted Board of Directors, the Company stands delisted and its capital stands reduced without any proceeding and without the requirement of adding the words "and reduced" in the name and style of the Company. Allotment of further shares of Company shall be made by the reconstituted board of directors of the Company in terms of the Approved Resolution Plan on to 1st August 2018 (also the Completion Date under the Approved Resolution Plan).
11. The Hon'ble Stock Exchanges may take on record this disclosure and intimation and treat SPML as delisted with effect from the date of the Board Meeting described above, i.e., 1st August 2018 in accordance with the amended Delisting Regulations/Exemption Notification and pursuant to cancellation of the entire share capital of SPML as per the Approved Resolution Plan and Clause 7.7 thereof. SPML does not intend to list its securities to be issued after cancellation of shareholding and consequential delisting.

You are requested to kindly take a note of the same.

Submitted for your kind information and necessary records.

Thanking you,

Yours faithfully

For The Sirpur Paper Mills Limited

Director

CC: Shri. Ajay Tyagi
Chairman
Securities and Exchange Board of India
Plot No. C4-A, 'G' Block
Bandra Kurla Complex
Bandra (East)
Mumbai 400 051

Executive Director
Division of Corporate Restructuring
Securities and Exchange Board of India
Plot No. C4-A, 'G' Block
Bandra Kurla Complex
Bandra (East)
Mumbai 400 051



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Ms. Madhabi Puri Buch
Whole-Time Member
Securities and Exchange Board of India
Plot No. C4-A, 'G' Block
Bandra Kurla Complex
Bandra (East)
Mumbai 400 051

Shri. G. Mahalingam
Whole-Time Member
Securities and Exchange Board of India
Plot No. C4-A, 'G' Block
Bandra Kurla Complex
Bandra (East)
Mumbai 400 051

19 ENCLS: NCLT ORDER Dated July 19, 2018

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

PRESENT: HON'BLE SHRI BIKKI RAVEENDRA BABU – MEMBER JUDICIAL

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 19.07.2018 AT 10.30
AM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No. 162,180,208,209&237/2018 in CP(IB) No. 52/9/HDB/2018
NAME OF THE COMPANY	Sirpur Paper Mills Limited
NAME OF THE PETITIONER(S)	Rama Road Lines & Others
NAME OF THE RESPONDENT(S)	Sirpur Paper Mills Limited
UNDER SECTION	9 OF IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
V.B. Sajith A. VENKATESH C. TULASI KRISHNA.	Advocate for R.P. ADV. - CA 209/18	9908011277 9849765397	Sajith C. T. Tulasi Krishna
S.Y. VANSHI KRISHNA	Advocate IA 208/17	Syhamakrishna@gmail.com 8919448958	S. Vanshi Krishna

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
RamATAN KAWONGO	RP	RGW@leadcorp.com	Ram. K.

Rajesh S. Sachdeva President 9811791717
for Resolution Applicant (Group Legal)
JK Paper Limited

19/7/18

IA No. 180, 208, 209, 237 & 162/2018 in

CP (IB) No.52/9/HDB/2017

ORDER

Learned counsel Mr.V.K.Sajith present for RP. Learned counsel Mr.A.Venkatesh and Mr.C.Tulasi Krishna present for Applicant in IA 209/2018. Learned counsel Mr.S.V.Vanshi Krishna present for Applicant in IA 208/2018. Learned RP Mr.Ram Ratan Kanoongo present. Learned counsel Mr.Rajpur S.Sachdeva present for Resolution Applicant (JK Papers Limited).

Common order pronounced in open court.

IA 180/2018 is allowed, approving the Resolution plan Annexure K (colly) of the Application.

IA 208/2018 is disposed of accordingly.

IA 209/2018 is disposed of giving liberty to the Applicant to revive its claim before Appropriate forum at Appropriate stage and as per the decision of the such forum the payment shall be made to the Applicant proportionately from out of the amount set apart for payment to the Operational Creditors in the Resolution plan.

IA 237/2018 is disposed of with a direction to the RP to include the claim of the Applicant in the claims of Operational Creditors and pay the Applicant from out of

the amount reserved for payment to Operational Creditors in the Resolution plan on proportionate basis along with other Operational Creditors.

IA 162/2018 is disposed of directing the RP to pay the Applicant No.1 publication expenses and remuneration of the IRP for first 30 days if not already paid.

Vide common order.

 19.7.18
MEMBER JUDICAL

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

I.A.No. 180 of 2018

In

C.P.(IB)No.52/9/HDB/2017

IN THE MATTER OF:

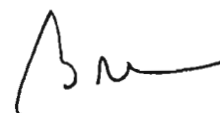
Resolution Professional of
The Sirpur Paper Mills Ltd
5-9-22/1/1, First Floor,
Adarsh Nagar,
Hyderabad-500063.

...Petitioner/

Corporate Debtor

Versus

1. The Committee of Creditors of The Sirpur Paper Mills Limited
 - i. IDBI Bank – NPA Management Group,
5-9-89/1, Chapel Road,
Hyderabad – 500 001
 - ii. State Bank of India – Stressed Assets Management Branch,
5th Floor, Rear Block of HMWSSB Compound,
D No.6-2-915, Kharatabad,
Hyderabad – 500 004
 - iii. Central Bank of India – Corporate Finance Branch,
Bank Street, Koti,
Hyderabad – 500095.



iv. Andhra Bank – Specialized Asset Recovery
Management Branch,

1st Floor, Andhra Bank Buildings,

Sultan Bazar, Koti,

Hyderabad – 500 095

v. Syndicate Bank – Corporate Finance Branch,
Sarojini House, 6,

Bhagwandas Road,

New Delhi – 110 001

...Respondent 1/ CoC Members

2. M/s. JK Paper Limited-Nehru House,

4 Bahadur Shah Zafar Marg,

New Delhi – 110 002

...Respondent 2/

Resolution Applicant

3. M/s.Rama Road Lines & Others

1-1-148/A, Petrol Pump,

Sirpur Kagaznagar,

Telangana – 504296

...Respondent 3/Original Petitioner/

Operational Creditor

I.A.No. 208 of 2018

In

C.P.(I.B.)No.52/9/HDB/2017

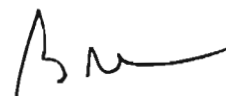
Mr.Veda Kumar Nimbagal

202, Maruthi Mansion

Dharma Reddy Colony, Kukatpally,

Hyderabad – 500085, Telangana

... Applicant



And

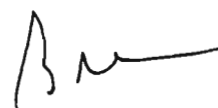
The Sirpur Paper Mills Limited,
 Represented by its Resolution Professional
 Mr.Ram Ratan Kanoongo,
 1006, Raheja Towers, Nariman Point
 Mumbai – 400021. ...Respondent

IA No.209 of 2018
In
C.P.(IB)No. 52/9/HDB/2017

Inox Air Products Pvt. Ltd.
 Registered Office is situated at:
 7th Floor, Ceejay House,
 Dr.Annie Besant Road, Worli,
 Mumbai-400018. ...Applicant

AND

The Sirpur Paper Mills Ltd.
 Registered Office is situated at:
 5-9-22/1/1, First Floor, Adarsh Nagar,
 Hyderabad- 500 063.
 (Rep. by its Resolution Professional, Mr.Ram Ratan
 Kanoongo)
 ...Respondent/
 Corporate Debtor



I.A.No. 237 of 2018
In
C.P.(IB)No.52/9/HDB/2017

M/s. FLSmidth Private Limited,

Registered Office is situated at:

FLSmidth House

34, Egatoor, Kelambakkam

Rajiv Gandhi Salai (OMR)

Chennai - 603 103

Tamilnadu.

(Rep. by its Head-Legal, Mr.Sivasubramanian
 Natarajan) ...Applicant/

Operational Creditor

And

M/s Rama Road Lines

M/s Reliable Industrial Equipment Services

M/s Reliable Paper Products

All 3 represented by its Proprietor Venna Kishore Babu

1-1-148/A, Petrol Pump

Sirpur Kagaznagar

Telangana 504296

...Respondent /Petitioner/

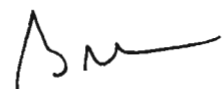
Operational Creditor

Versus

Mr.Ram Ratan Kanoongo,

Resolution Professional of

The Sirpur Paper mills Ltd



5-9-22/1/1, first floor
Adarsh Nagar,
Hyderabad 500 063.

...Respondent/
Corporate Debtor

I.A.No. 162 of 2018
In
C.P.(IB)No.52/9/HDB/2017

1. M/s. Rama Road Lines and others
Represented by its Proprietor
Sri.Venna Kishore Babu
1-1-148/A, Petrol Pump,
Sirpur Kaghaznagar,
Telangana – 504 296.
2. M/s. Reliable Industries Equipment Services,
Represented by its Proprietor
Sri Venna Kishore Babu,
1-1-148/A, Petrol Pump,
Sirpur Kaghaznagar,
Telangana – 504 296.
3. M/s. Reliable Paper Products,
Represented by its Proprietor,
Sri Venna Kishore Babu,
1-1-148/A, Petrol Pump,
Sirpur Kaghaznagar,
Telangana-504 296

...Applicants



And

1. The Sirpur Paper Mills Limited,
Registered Office is situated at:
5-9-22/1/1, 1st Floor,
Ashoka Chambers, Adarsh Nagar,
Hyderabad – 500 063

 2. Mr.Ram Ratan Kanoongo,
Resolution Professional- The Sirpur Paper Mills Ltd,
1006, 10th Floor, Raheja Towers,
Nariman Point, Mumbai – 400 021

 3. Mr.Mahadev Tirunagari,
Interim Resolution Professional – The Sirpur Paper
Mills Ltd,
Flat No. 201, 2nd Floor,
Lake View Towers, Safari Nagar,
Near Hitech City, Kothaguda,
Kondapur, Hyderabad – 500 084
- ...Respondents

Date of Order: 19.07.2018

CORAM:

**Hon'ble Shri Bikki Raveendra Babu, Member
Judicial**

1. Learned counsel Mr.V.K.Sajith present for
Resolution Professional.

2. Senior Counsel Mr.S.Ravi present for Resolution
Applicant along with learned counsel Mr.Shantanu
Chaturvedi, Advocate present for Resolution



Applicant and Mr.R.S.Sachdeva, President, Legal-JK Paper Limited, Resolution Applicant.

3. Learned counsel Mr.C.Prabhakar present for Committee of Creditors.
4. Learned counsel Mr.S.V.Rama Krishna present for Applicant in IA 208/2018.
5. Learned counsel Mr.A.Venkatesh present for Applicant in IA 209/2018.
6. Learned counsel Mrs.JVL Bharati present for Applicant in IA 237/2018.
7. Learned counsel Syed Yaqoob Sajjad present for Applicant in IA 162/2018.

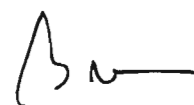
Common Order

1. The Resolution Professional filed this Application U/s 30(6) of the Insolvency and Bankruptcy Code, 2016 read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 seeking approval of the Resolution Plan Annexure- K (colly).
2. The facts in brief that are necessary for the disposal of IA 180/2018 are as follows:-
3. M/s. Rama Road Lines / Operational Creditor triggered the Corporate Insolvency Resolution Process in respect of The Sirpur Paper Mills Ltd



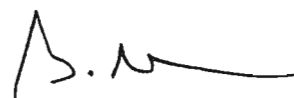
U/s 9 of the IB Code by filing CP(IB) 52/9/HDB/2017. This Adjudicating Authority, by its order, dated 18.09.2017, commenced Corporate Insolvency Resolution Process by appointing Mr.Mahadev Tirunagari Insolvency Professional as Interim Resolution Professional.

4. Thereafter, on the Application of CoC vide CA No.192/2017, this Adjudicating Authority, as per the recommendation of the CoC, appointed Mr.Ram Ratan Kanoongo as Resolution Professional.
5. The CoC, in its 3rd meeting, held on 08.12.2017, resolved to call for Expression of Interest("EoIs") and consequential submission of Resolution Plan from the prospective Resolution Applicants and accordingly, an advertisement was made in the newspaper on 11th and 13th of December 2017 stating the last day for submission of Expression of Interest was 22.12.2017.
6. By the last date, seven Resolution Applicants had shown Expression of Interest. They were given time till 25.01.2018 to conduct their due diligence, plant visit, meeting with stakeholders, document verifications etc., and all or any of the



activity that enable them to submit a valid and sustainable Resolution Plan.

7. The Resolution Professional shared Information Memorandum with qualifying Resolution Applicants, after obtaining a non-disclosure agreement from the prospective Resolution Applicants. Out of seven, three Resolution Applicants namely, JK Papers Ltd, West Coast Papers Mills Ltd and Star Paper Mills Ltd visited the site. The other Resolution Applicants did not conduct their visit to the site.
8. In the 5th CoC meeting held on 20.01.2018, CoC fixed the dead line for submission of Resolution Plan as 12.02.2018 till 5.00PM along with Rs.50 crores as Bid Security/Bid Bond in the form of Demand Draft/Bank Guarantee payable by the Resolution Applicant.
9. The Resolution Professional decided to accept password protected Resolution Plan through email up to 5 pm on 12.02.2018.
10. It is only M/s. JK Paper Limited submitted the Resolution Plan before 12.02.2018 in a password protected file. The other three Resolution Applicants sought extension of time but CoC decided not to grant any additional time to any

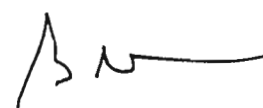


other Resolution Applicants since sufficient time had already been given.

11. Resolution Applicant furnished an affidavit stating that it was not ineligible under any of the provisions of Section 29A of the Code. The Resolution Professional verified the eligibility of the Resolution Applicant and the compliance of the Resolution Plan as required by the Code and its Regulations and having been satisfied made a certification to the CoC.

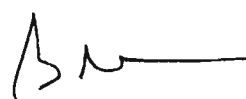
12. The Resolution Professional apprised the CoC that the Resolution Plan was Conditional one, which was subjected to various benefits and concession envisaged from the Govt. of Telangana, which was offered by the Govt. of Telangana through their letter to the investor to the Resolution Applicant.

13. The Resolution Professional wrote to the Principal Secretary to the Government, Commissioner for Industrial Promotion & Mines, Govt. of Telangana, on 17.02.2018, regarding confirmation by the Industry and Commerce Department of the Government of Telangana, the Benefits & Concessions sought by the Resolution



Applicant, in pursuant to the Letter of the Principal Secretary dated 09.11.2017.

14. In its meeting held on 22.02.2018, the Resolution Applicant submitted revised Resolution Plan. The Resolution Professional placed the revised draft Resolution Plan before the CoC on 05.03.2018. The CoC decided to wait for the confirmation relating to various benefits and concessions offered by the Govt. of Telangana.
15. The CoC instructed Resolution Professional to seek an extension of CIRP Process period for 90 days and accordingly Resolution Professional filed CA No. 50 of 2018 in CP (IB) No 52/9/HDB/2017 and this Authority extended the duration of CIRP Process period by further 90days, thereby granting time till 15.06.2018.
16. On 21.03.2018 the Industries and Commerce (IP & INF), Department of the Government of Telangana issued Government Order (G.O.Ms.No.18) granted tailor made concessions and benefits to the Resolution Applicant, i.e. M/s. JK Paper Limited.
17. The Resolution Applicant-M/s. JK Paper Limited submitted its final revised Resolution Plan to the Resolution Professional and the same was placed

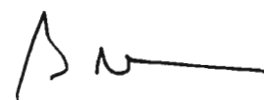


before the CoC in its 9th meeting conducted on 28.03.2018. The CoC suggested for further improvements and requested the Resolution Applicant to submit its final revised Resolution Plan. Accordingly, the Resolution Applicant submitted the revised and improved Resolution Plan on 30.03.2018 and the same was placed before the CoC.

18. The Resolution Applicant further revised the Resolution Plan on 25.04.2018. After negotiations, the Resolution Applicant again submitted final Resolution Plan on 30.04.2018 after considering the Government Order issued by the Government of Telangana regarding proposal to revive The Sirpur Paper Mills Ltd., by sanctioning customized incentives to the Resolution Applicant (G.O.Ms.No.18, dated 21.03.2018).

19. On 01.05.2018, the revised final Resolution Plan submitted by the Resolution Applicant was scrutinized by CoC.

20. The Tehsildar, Kaghaznagar Mandal, District Komarambheem, Asifabaf, issued survey reports in respect of the land held by the Corporate



Debtor. It says that Corporate Debtor is having valid title to the immovable properties.

21. The Resolution Professional conducted 11th CoC meeting on 16.05.2018 for the CoC to vote on the Resolution Plan.

22. The Resolution Professional requested the Resolution Applicant to attend the CoC meeting, wherein Resolution Plan was put to vote.

23. The final Resolution Plan provides payments to various stakeholders as under:-

Payment to Stakeholders (in Rs.crores)		
Particulars	Admitted Claim	Payment as per Resolution Plan
Insolvency Resolution Process Cost	—	2.15
Payment to Secured Financial Creditors		
Upfront Cash	533.39	135.00
Equity Shares (buy back in 12 months)		43.00
Preference Shares (0.01% coupon with 20 years maturity)		162.00

Total	533.39	340.00
Workmen Dues	16.89	10.00
Employees Dues	27.60	0.67
Retirement Benefits of Employees	-	8.72
Operational Creditors	95.71	9.50
Total payment to all stakeholders	673.59	371.04

24. The Resolution Applicant has proposed the following sources and use of funds based on the business requirements of the Corporate Debtor reserving its right to vary, alter or modify the funding proposed below:-

INR Cr

Sr.No.	Particulars	Settlement	Phase I	Phase II	Total
1	Equity brought in by the Resolution Applicant	48			48
1.1	Equity/Long dated securities as permitted per law and financial covenants.	-	50	38	88
1.2	Equity shares to be issued to	43	-	-	43

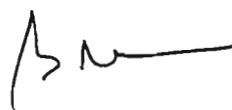
Bu

	Secured Financial Creditors				
1.3	Preference shares to Secured Financial Creditors	162	–	–	162
1.4	Debt/advance/security deposit- from the Resolution Applicant/new banks/financial institutions	118	135	138	391
1.5	Incentive from Govt. of Telangana	–	22	28	50
1.6	Total Funding	371	207	204	782
2	Settlement	371	–	–	371
2.1	Capex	–	112	204	316
2.2	NCA/WC	–	75	–	75
2.3	Cash for Contingencies	–	20	–	20
2.4	Total Uses	371	207	204	782

25. The Resolution Plan was put to vote as required under section 30(4) of the Code and Regulation 39(3) of CIRP Regulations.

26. The CoC in its 11th meeting, held on 16.05.2018, passed the following regulations:

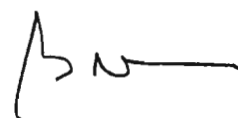
“RESOLVED THAT pursuant to Section 30(4) of the Code, Resolution Professional has confirmed



that the Resolution Applicant, M/s JK Paper Limited is not ineligible to be a Resolution Applicant as defined under Section 29A of the Code and accordingly the Committee of Creditors (hereafter referred to as "COC") is satisfied to approve the Resolution Plan."

"FURTHER RESOLVED THAT pursuant to Regulation 39(3A) of IBBI (CIRP) Regulations, 2016, the COC while approving the Resolution Plan under Section 30(4) of the Code confirms that the Resolution Plan specifies the amount payable from the resources as specified under Regulation 38(1) of IBBI (CIRP) Regulations, 2016.

"FURTHER RESOLVED THAT pursuant to Section 30(4) of the Code and Regulation 39(3) of IBBI(CIRP) Regulations, 2016 after considering its feasibility and viability, COC approves the Resolution Plan submitted by the Resolution Applicant, M/s JK Paper Limited dated 30th April 2018 and authorize Resolution Professional to submit the Resolution Plan as approved by the CoC to the Adjudicating Authority as required under section 30(6) of the Code and Regulation 39(4) of the IBBI (CIRP) Regulations, 2016 for



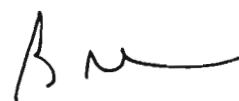
getting the approval from the Adjudicating Authority under Section 31 of the Code.”

Voting Result:

Name of CoC Member	Voting share	Result
IDBI Bank	41.98%	Voted in favour of the Resolution Plan
State Bank of India	28.48%	Voted in favour of the Resolution Plan
Central Bank of India	19.34%	Voted against the Resolution Plan
Andhra Bank	6.23%	Voted in favour of the Resolution Plan
Syndicate Bank	3.97%	Voted in favour of the Resolution Plan

27. In the CoC meeting, 80.66% votes were cast in favour of the Resolution Plan and 19.34% votes were cast against the Resolution Plan. The CoC approved the Resolution Plan by a vote of not less than 75% of voting share.

28. The Resolution Plan approved by the CoC together with the accompanying documents is



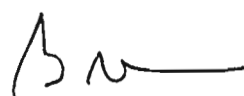
annexed as Annexure K (colly) for approval of this Authority.

29. The Resolution Professional submitted the Resolution Plan vide Annexure K (colly) of the Application as approved by the CoC to this Authority u/s 30(6) of the Code. Section 31 deals with the approval or rejection of the Resolution Plan, as approved by the CoC, by the Adjudicating Authority. The approval of the Resolution Plan is under sub-section (1) of section 31. Section 31 of the IB Code deals as follows:-

Approval of Resolution Plan.

31.(1) If the Adjudicating Authority is satisfied that the Resolution Plan as approved by the committee of creditors under sub-section (4) of section 30 meets the requirements as referred to in sub-section (2) of section 30, it shall by order approve the Resolution Plan which shall be binding on the Corporate Debtor and its employees, members, creditors, guarantors and other stakeholders involved in the Resolution Plan.

(2) Where the Adjudicating Authority is satisfied that the Resolution Plan does not conform to the



requirements referred to in sub-section (1), It may, by an order, reject the Resolution Plan.

(3) After the order of approval under sub-section (1), -

(a) The moratorium order passed by the Adjudicating Authority under section 14 shall cease to have effect; and

(b) The resolution professional shall forward all records relating to the conduct of the corporate insolvency resolution process and the Resolution Plan to the Board to be recorded on its database.

30. Before approving the Resolution Plan, as approved by the CoC., it is the duty of the Adjudicating Authority that it should satisfy that the Resolution Plan, as approved by the CoC., under sub-section (4) of section 30 meets the requirements as referred to sub-section (2) of Section 30.

31. Therefore, it is necessary to refer to sub-section (2) of section 30, which reads as follows:-

Submission of Resolution Plan. Sec.30

30.(1) A Resolution Applicant may submit a Resolution Plan to the resolution professional

prepared on the basis of the information memorandum.

(2) The resolution professional shall examine each Resolution Plan received by him to confirm that each Resolution Plan-

(a) Provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the repayment of other debts of the Corporate Debtor;

(b) Provides for the repayment of the debts of operational creditors in such manner as may be specified by the Board which shall not be less than the amount to be paid to the operational creditors in the event of a liquidation of the Corporate Debtor under section 53;

(c) Provides for the management of the affairs of the Corporate Debtor after approval of the Resolution Plan;

(d) The implementation and supervision of the Resolution Plan;

(e) Does not contravene any of the provisions of the law for the time being in force.



(f) conforms to such other requirements as may be specified by the Board.

(3) The resolution professional shall present to the committee of creditors for its approval such Resolution Plans which confirm the conditions referred to in sub-section (2).

(4) The committee of creditors may approve a Resolution Plan by a vote of not less than seventy five per cent of voting share of the financial creditors.

(5) The Resolution Applicant may attend the meeting of the committee of creditors in which the Resolution Plan of the Applicant is considered:

Provided that the Resolution Applicant shall not have a right to vote at the meeting of the committee of creditors unless such Resolution Applicant is also a financial creditor.

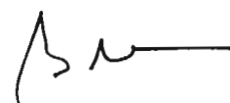
(6) The resolution professional shall submit the Resolution Plan as approved by the committee of creditors to the Adjudicating Authority.

32. Sub-section (2) of Section 30 casts duty on the Resolution Professional to examine the Resolution Plan received by him to confirm that



such Resolution Plan provides for the payment of insolvency resolution process costs, provides for the repayment of the debts of operational creditors in such manner as may be specified by the Board which shall not be less than the amount to be paid to the operational creditors in the event of a liquidation of the Corporate Debtor under section 53 of the Code, Provides for the management of the affairs of the Corporate Debtor after approval of the Resolution Plan; the implementation and supervision of the Resolution Plan, does not contravene any of the provisions of the law for the time being in force, conforms to such other requirements as may be specified by the Board.

33. Therefore, this Adjudicating Authority has to necessarily examine whether the requirements of sub-section (2) of section 30 have been complied with or not.
34. A perusal of the Resolution Plan, approved by the CoC. which is Annexure K (colly), provides for payment of Insolvency Resolution Process costs, set apart the amount for payment of operational creditors and it also provides for management of

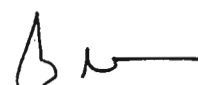


affairs of the Corporate Debtor after approval of the Resolution Plan.

35. The Resolution Applicant is not disqualified U/s. 29(a) of the IB Code. The operational creditors that choose to dispute the rejection of their claims also stated that they have no rejection for the approval of the Resolution Plan.

36. In the case on hand, the Resolution Plan, as approved by the CoC., is a conditional Resolution Plan and the integral part of the Resolution Plan is having certain concessions given by the Government of Telangana.

37. In this context it is necessary to make a mention. But for the G.O.Ms No 18 issued by the Government of Telangana it would not have been possible to revive the Corporate Debtor. The Resolution Plan, if approved, would revive the Corporate Debtor and it would help all the stakeholders. The concessions given by the Government of Telangana in making this Resolution Plan valid and sustainable Resolution Plan goes a long way and help the Resolution Applicant to commence the operations of the Corporate Debtor.



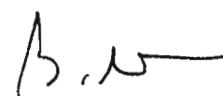
38. The revival of the Corporate Debtor company would certainly enhance the interest of all the stakeholders and the economic conditions in the area, in which the Corporate Debtor company is situated.

39. In view of the finding that the Resolution Plan, as approved by the CoC., is in accordance with the sub-section 2 of section 30 and the Resolution Applicant is not disqualified u/s. 29A of the Code, this Adjudicating Authority hereby approve the Resolution Plan Annexure-K of the Application IA 180/2018.

40. This Adjudicating Authority hereby declare that the Resolution Plan is binding on the Corporate Debtor, employees of the Corporate Debtor, members of the Corporate Debtor, creditors of the Corporate Debtor, guarantors of the Corporate Debtor and other stakeholders involved in the Resolution Plan.

41. This Adjudicating Authority hereby declare that the moratorium order passed by this authority u/s 14 shall cease to have effect.

42. The Resolution Professional shall forward all records relating to the CIRP Process and the



Resolution Plan to the IBBC to be recorded at its data base.

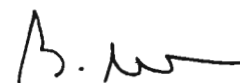
43. This IA 180/2018 is disposed of accordingly, approving the Resolution Plan Annexure K (Colly) of the Application IA 180/2018.

IA 208/2018

44. Veda Kumar Nimbagal filed this Application IA 208/2018 u/s 60(5) of the IBC, 2016 to accept claim of Rs.13,50,000/- towards salary from June 2017 to February 2018 and to declare that his appointment as Executive Director and Chief Executive Officer of the Corporate Debtor is valid.
45. The facts, in brief, that are germane for considering the claim of the Applicant, are as follows:-
46. Initially, the Applicant has been chosen by the Board of Directors of the Corporate Debtor as Additional Director and also Whole Time Director, designated him as Executive Director & Chief Executive Officer (CEO), in the Board Meeting held, on 23.01.2015, on a monthly remuneration of Rs.1,50,000/- and other perquisites.



47. In the 76th Annual General Meeting (AGM) of the Corporate Debtor, held on 31.12.2015, the members of the Company appointed the Applicant as Whole Time Director with a designation as Executive Director and CEO for a period of two years w.e.f., 23.01.2015 to 22.01.2017.
48. The Nomination and Remuneration Committee of the Corporate Debtor, in the meeting, on 23.01.2017, approved the remuneration and terms and conditions of appointment of the Applicant as Whole Time Director with designation as Executive Director and CEO of the Company and recommended for approval of the Board of Directors of the Company. The Company approved the appointment of the Applicant for a further period of two years i.e. from 23.01.2017 to 22.01.2019 with a designation as Executive Director & CEO of the Company and in the AGM held on 29.09.2017 the IRP, Mr.Mahadev Tirunagari appointed by this Authority was also present.
49. It is stated by the Applicant that after the admission of CP(IB) 52 of 2017 in respect of the Corporate Debtor, this Adjudicating Authority by



its Order, dated 18.09.2017, appointed Mr.Mahadev Tirunagari, Insolvency Professional as Interim Resolution Professional. The said IRP sent an e-mail, dated 29.09.2017, which reads as under:-

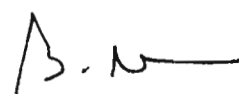
“As per the provisions of IBC and corresponding regulations, IRP can appoint any person to undertake and oversee the affairs of the company and report to IRP.

In this regard, I appoint Mr.N.Veda Kumar as CEO of the Company to undertake and oversee the affairs of the company and is also required to report to the IRP i.e. myself.

He is also further advised to delegate any of his responsibilities. But the single point of contact would be CEO for the IRP.

In case of any inevitable conditions wherein the CEO is unable to attend his duties and responsibilities, he is suggested to provide an alternative with the approval and confirmation from the IRP.”

50. The Applicant accepted the appointment vide his e-mail reply, dated 05.10.2017.



51. The Applicant was on leave since he had been to USA on some urgent personal matter during the period from 21.10.2017 to 31.01.2018, with prior permission of the IRP and making alternate arrangement authorizing Mr.Mahesh Kumar Birla, in the absence of the Applicant and the same was approved by the IRP.

52. The Applicant filed copies of e-mails, dated 19.10.2017 and 21.10.2017.

53. The Applicant returned from USA and resumed duties on 02.02.2018. The IRP Mr.Ram Ratan Kanoongo vide his e-mail, dated 02.02.2018, informed the Applicant as under:-

“Thank you for the mail.

I would like to inform that the CoC has not approved the remuneration payable to you as ED & CEO. Since, your appointment was made post commencement of CIR process without the approval of COC Members/Lenders.

Currently, I am out of India and will be available in Mumbai from Tuesday next week.

I request you to not resume the office as a Whole Time Director & CEO until our discussion on the matter after my return.”

B. N

54. Thereupon, the Applicant filed claim in Form-B under Regulation 7 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, before the Resolution Professional for a sum of Rs.13,50,000/-.
55. The Applicant also submitted proof of the claim. The Applicant sent a letter, dated 21.04.2018, to the Resolution Professional stating that the CoC cannot substitute its wisdom in the place of the wisdom of the shareholders of the Company.
56. The Resolution Professional sent a reply, dated 28.04.2017, with vague and evasive reply.
57. It is stated by the Resolution Professional that the initial appointment of the Applicant on 29.12.2014 was without any approval from the lenders whereas the IB Code itself came into force w.e.f. 01.12.2016.
58. As can be seen from the website of the Corporate Debtor, the claim of the Applicant is allowed for an amount of Rs.5,40,000/- and balance of Rs.8,10,000/- is rejected.
59. The Resolution Professional filed reply. The appointment of the Applicant as Whole Time Director designated as Executive Director and

B.N

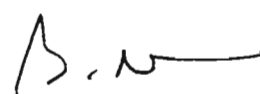
CEO by the Board Resolution, dated 23.01.2015 for the period of two years from 23.01.2015 to 22.01.2017 on a remuneration of Rs.1,50,000/- per month has not been approved by the Ministry of Corporate Affairs as can be seen from the e-mail, dated 14.10.2016 on the ground that "No Objection Certificate (NOC) from the lenders" has not been furnished.

60. The Resolution Professional stated in the reply that the reappointment of the Applicant for the period from 23.01.2017 to 22.01.2019 on a remuneration of Rs.1.50 lacs per month is also without the approval of the CoC members.

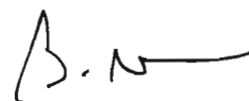
61. The Resolution Professional stated that in view of the Section 17(1)(b) of the Code, the powers of the Board of Directors stand suspended and such powers are vested in the Interim Resolution Professional.

62. The appointment of the Applicant in the 8th Annual General Meeting held on 29.09.2017 has also not been approved by the MCA on the ground that no NOC from the lenders (members of the CoC) has not been furnished.

63. The MCA also raised the objection that the resolution is signed by the suspended Director.



64. It is stated by the Resolution Professional that Interim Resolution Professional by his email dated 18.06.2018 informed that the appointment of the Applicant is no a fresh appointment and it is a continuation of the existing position. The Applicant took permission to go on leave only two days before he left for USA and stayed there for more than 100 days.
65. CoC did not approve the service of the Applicant in its meeting held on 8.12.2017.
66. The CoC in its 4th meeting held on 28.12.2018 resolved that the appointment of the Applicant was done without any consent from the CoC.
67. The Applicant not filed any claim before the dead line fixed on 08.10.2017.
68. The Applicant filed his claim in Form B for Rs.13.50 lacs with no supporting documents. The Applicant ought to have filed his claim in form D but not in Form B since he is an employee of the Corporate Debtor.
69. The claim of the Applicant is for the period from June 2017 to February 2018 amounting to Rs.13.05 Lakhs.



70. According to the Resolution Professional the claim has to be filed only till the date of commencement of CIRP Process, but Applicant claimed till February 2018.

71. Therefore, the claim of the Applicant after 18.09.2017 amounting to Rs.8.10lakhs has been rejected.

72. The Claim of the Applicant for the period from June 2017 to 18.09.2017 was allowed for Rs.5.40lakhs.

73. There is no dispute, the claim of the Applicant is only for the period from June 2017 to February 2018 @ 1.50 lakhs per month.

74. The initial appointment of the Applicant is for the period 23.01.2015 to 22.01.2017. The claim relates to the period from June 2017 to February 2018.

75. Therefore, there is no need to discuss about the validity or otherwise of the first appointment of the Applicant for the period from 23.01.2015 to 22.01.2017.

76. The second appointment of the Applicant for the second term of two years is from 23.01.2017 to 22.01.2019.

B. N

77. According to the Applicant, the appointment was approved by the AGM on 31.12.2015 in which meeting the Interim Resolution Professional was present.

78. The CIRP Process was commenced on 18.09.2017. The appointment of Applicant by IRP, Mr.Mahadev Tirunagari is not with the approval of the CoC.

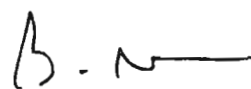
79. There is no need for the approval of the CoC for the appointment of Applicant as CEO but the remuneration of the CEO has to be approved by the CoC.

80. In the case on hand the CoC did not approve the remuneration of the Applicant.

81. More over Applicant is on leave from 21.10.2017 to 31.01.2018.

82. The Applicant did not file any document to show that he has got leave to his credit which earns salary for him.

83. In the absence of such documents it cannot be said that Applicant is entitled for salary during his leave period even if it's a leave with the permission of IRP.



84. Therefore, the Applicant was on duty from 23.01.2017 to 20.10.2017. The Applicant is paid salary upto 18.09.2017. That means Applicant has not been paid salary from 19.09.2017 to 20.10.2017.

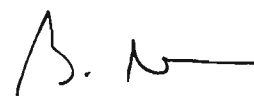
85. In view of the fact that the Applicant worked as CEO during the period from 19.09.2017 to 20.10.2017 he is entitled for his salary but not by way of a claim filed during the CIRP Process Period.

86. The claim has to be filed by the employees only as on the date of commencement of CIRP Process Period.

87. The adjudication of the claims that arose after the commencement of CIRP Process Period is not covered by Form-B,C,D.

88. Therefore, it is open for the Applicant to claim his salary at an appropriate time in an appropriate forum for a period from 19.09.2017 to 20.10.2017.

89. In view of the above discussion the rejection of the claim of the Applicant to the extent of Rs.8.10 is sustainable.



90. Hence the Applicant is not entitled for any relief in this Application.

Application is disposed off accordingly.

IA 209/2018

91. This Application is filed by Inox Air Products Pvt Ltd., claiming it as operational creditor U/s. 65 of the Insolvency and Bankruptcy Code against rejection of its claim by the Resolution Professional.

92. The facts, in brief, that lead to the filing of this Application are as follows:-

93. It is stated by the Applicant that pursuant to the Purchase Order No.771/4500169581, dated 26.03.2012, the Applicant supplied the liquid oxygen for a period of three years. The Purchase Order contained the terms and conditions relating to the terms of delivery, terms of payment, Basic Price, facility charges, Price Escalation Billing, Minimum Take or Pay, Period and Jurisdiction.

94. The Applicant delivered the material and liquid oxygen storage tank, in accordance with the terms and conditions mentioned in the Purchase Order, dated 26.03.2012, and raised number of invoices.

The following are the invoices raised:-

B. N

Sl.No.	Invoice No.	Date of Invoice.	Purpose	Total Amount Payable	Amount received	Amount outstanding
	For supplies from our Butibori (Dist. Nagpur) Unit					
1.	4729	27/03/2014	supply	100,036.13	99,290.22	745.91
2.	4732	27/03/2014	Supply	89,947.07	89,016.07	931.00
3.	4772	29/03/2014	Supply	94,991.60	92,493.60	2,498.00
4.	4796	31/03/2014	Supply	100,036.13	97,025.13	3,011.00
5.	1090	18/06/2014	Power Esc.May '14	69,981.24	0.00	69,981.24
6.	1113	20/06/2014	supply	87,957.35	78,226.06	9,731.29
7.	1143	22/06/2014	supply	81,473.20	0.00	81,473.20
8.	1203	26/06/2014	supply	92,941.38	0.00	92,941.38
9.	1205	26/06/2014	supply	89,739.68	0.00	89,739.68
10.	1206	26/06/2014	supply	92,400.09	0.00	92,400.09
11.	1251	28/06/2014	supply	91,340.53	0.00	91,340.53

12.	1261	28/06/2014	Fixed Facility	68,764.62	0.00	68,764.62
13.	1277	30/06/2014	supply	80,934.80	0.00	80,934.80
14.	1305	30/06/2014	supply	94,090.37	0.00	94,090.37
15.	1306	30/06/2014	supply	83,451.22	0.00	83,451.22
16.	1311	02/07/2014	supply	94,090.37	0.00	94,090.37
17.	1330	04/07/2014	supply	80,384.71	0.00	80,384.71
18.	1377	08/07/2014	supply	93,364.71	0.00	93,364.71
19.	1379	08/07/2014	supply	94,628.77	0.00	94,628.77
20.	1419	11/07/2014	supply	86,154.90	0.00	86,154.90
21.	1420	11/07/2014	supply	86,517.72	0.00	86,517.72
22.	1435	12/07/2014	supply	85,078.11	0.00	85,078.11
23.	1452	13/07/2014	supply	80,384.71	0.00	80,384.71
24.	1520	17/07/2014	Diesel Esc. June '14	78,142.34	0.00	78,142.34
25.	1526	18/07/2014	supply	86,342.16	0.00	86,342.16

26.	1527	18/07/2014	supply	85,078.11	0.00	85,078.11
27.	1546	19/07/2014	supply	94,804.33	0.00	94,804.33
28.	1554	19/07/2014	Power Esc. June '14	137,491.43	0.00	137,491.43
29.	1566	20/07/2014	supply	82,737.26	0.00	82,737.26
30.	1623	24/07/2014	supply	94,265.93	0.00	94,265.93
31.	1624	24/07/2014	supply	93,727.54	0.00	93,727.54
32.	1661	26/07/2014	supply	94,265.93	0.00	94,265.93
33.	1662	26/07/2014	supply	86,330.46	0.00	86,330.46
34.	1727	29/07/2014	Fixed Facility	68,764.32	0.00	68,764.32
35.	1754	31/07/2014	supply	83,626.78	0.00	83,626.78
36.	1755	31/07/2014	supply	85,253.67	0.00	85,253.67
37.	1756	31/07/2014	supply	82,362.73	0.00	82,362.73
38.	1773	31/07/2014	supply	84,890.83	0.00	84,890.83
39.	1802	03/08/2014	supply	80,384.71	0.00	80,384.71

40.	1866	08/08/2014	supply	81,836.03	0.00	81,836.03
41.	1881	09/08/2014	supply	80,384.71	0.00	80,384.71
42.	1884	09/08/2014	supply	80,747.55	0.00	80,747.55
43.	1886	09/08/2014	supply	96,431.22	0.00	96,431.22
44.	1927	11/08/2014	Diesel Esc. July '14	69,048.42	0.00	69,048.42
45.	1947	13/08/2014	Supply	82,011.60	0.00	82,011.60
46.	1977	13/08/2014	Power Esc. July '14	66,993.81	0.00	66,993.81
47.	1995	15/08/2014	supply	79,307.91	0.00	79,307.91
48.	2068	20/08/2014	supply	80,560.27	0.00	80,560.27
49.	2069	20/08/2014	supply	98,233.67	0.00	98,233.67
50.	2073	20/08/2014	supply	86,868.85	0.00	86,868.85
51.	2122	23/08/2014	supply	80,209.14	0.00	80,209.14
52.	2144	24/08/2014	supply	81,648.76	0.00	81,648.76
53.	2145	24/08/2014	supply	96,068.39	0.00	96,068.39

54.	2179	26/08/2014	Fixed Facility	68,764.32	0.00	68,764.32
55.	2213	28/08/2014	Supply	96,431.22	0.00	96,431.22
56.	2246	30/08/2014	Supply	96,431.22	0.00	96,431.22
57.	2269	31/08/2014	Supply	94,979.89	0.00	94,979.89
58.	2294	31/08/2014	Supply	86,342.16	0.00	86,342.16
59.	2354	05/09/2014	supply	95,705.55	0.00	95,705.55
60.	2380	07/09/2014	supply	94,265.93	0.00	94,265.93
61.	2383	07/09/2014	supply	81,461.50	0.00	81,461.50
62.	2451	11/09/2014	Diesel Esc. Aug'14	59,627.96	0.00	59,627.96
63.	2476	13/09/2014	Supply	84,715.27	0.00	84,715.27
64.	2477	13/09/2014	Supply	86,517.72	0.00	86,517.72
65.	2521	15/09/2014	Power esc. Aug '14	86,886.47	0.00	86,886.47
66.	2546	17/09/2014	Supply	80,560.27	0.00	80,560.27
67.	2547	17/09/2014	Supply	81,461.50	0.00	81,461.50

68	2548	17/09/2014	Supply	85,967.63	0.00	85,967.63
69	2552	17/09/2014	Supply	84,528.01	0.00	84,528.01
70	2587	19/09/2014	Supply	86,517.72	0.00	86,517.72
71	2652	22/09/2014	Supply	72,098.11	0.00	72,098.11
72	2723	27/09/2014	Fixed Facility	68,764.32	0.00	68,764.32
73	2937	14/10/2014		38,547.00	0.00	38,547.00
74	2978	16/10/2014	Power Esc. Sept'14	93,265.80	0.00	93,265.80
75	91822678	28/10/2014	Fixed Facility	61,200.00	0.00	61,200.00
76	3384	13/11/2014	Short Lifting Sept '14 (partly)	114,177.82	0.00	114,177.82
77	91387711	13/11/2014	Short Lifting Oct'14	654,286.33	0.00	654,286.33
78	91851758	29/11/2014	Fixed Facility	61,200.00	0.00	61,200.00
79	91866882	16/12/2014	Short Lifting Nov'14	654,286.33	0.00	654,286.33
80	91879204	30/12/2014	Fixed Facility	61,200.00	0.00	61,200.00
81	91887776	08/01/2015	Short lifting Dec'14	654,286.33	0.00	654,286.33

82	91917534	11/02/2015	Fixed Facility	61,200.00	0.00	61,200.00
83	91918615	12/02/2015	Short lifting Jan'15	654,286.33	0.00	654,286.33
84	91930728	26/02/2015	Fixed Facility	61,200.00	0.00	61,200.00
85	91956054	26/03/2015	Fixed Facility	61,200.00	0.00	61,200.00
86	91986073	29/04/2015	Fixed Facility	61,200.00	0.00	61,200.00
87	92009112	26/05/2015	Fixed Facility	61,200.00	0.00	61,200.00
88	92038931	29/06/2015	Fixed Facility	61,200.00	0.00	61,200.00
89	92064767	28/07/2015	Fixed Facility	61,200.00	0.00	61,200.00
90	92091231	27/08/2015	Fixed Facility	61,200.00	0.00	61,200.00
91	92119499	28/09/2015	Fixed Facility	61,200.00	0.00	61,200.00
92	92147249	29/10/2015	Fixed Facility	61,200.00	0.00	61,200.00
93	3375	25/11/2015	Fixed Facility	61,200.00	0.00	61,200.00
94	3894	25/12/2015	Fixed Facility	61,200.00	0.00	61,200.00
95	4453	25/01/2016	Fixed Facility	61,200.00	0.00	61,200.00

96	5062	25/02/2016	Fixed Facility	61,200.00	0.00	61,200.00
97	5582	25/03/2016	Fixed Facility	61,200.00	0.00	61,200.00
98	499	30/04/2016	Fixed Facility	61,200.00	0.00	61,200.00
99	932	25/05/2016	Fixed Facility	61,200.00	0.00	61,200.00
100	1800000016	28/06/2014	CST Debit Note	5,960.35	0.00	5,960.35
101			CST Debit Note	1,44,218	0.00	1,44,218
	For supplies from our Hyderabad Unit					
102						
103	13260	29/03/2014	Power esc. Dec '13	20,733.46	0.00	20,733.46
104	13261	29/03/2014	Power esc. Jan'14	87,153.34	0.00	87,153.34
105	13263	29/03/2014	Power esc. Sept'13	11,006.67	0.00	11,006.67
106	13265	29/03/2014	Diesel Esc. Jan'14	7,839.18	0.00	7,839.18
107	13266	29/03/2014	Diesel Esc. Sept'13	2,252.62	0.00	2,252.62
108	13267	29/03/2014	Diesel Esc. Dec'13	4,289.68	0.00	4,289.68

109	3133	24/06/2014	Diesel Esc. May'14	28,288.07	0.00	28,288.07
Total				10,444,194.05	456,051.08	1,01,32,360

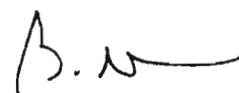
95. It is stated that invoices mentioned in item No. 5, 24, 28, 44, 46, 62, 65, 74 and 103 to 109 were raised due to the escalation in the prices of the material in accordance with the Escalation Clause in the Purchase Order.

96. The invoices mentioned in item Nos.76, 77, 81, 83 were raised in accordance with the Minimum Take or Pay clause mentioned in the Purchase Order.

97. The Minimum Take or Pay clause creates an obligation on the part of the Applicant to supply minimum quantity and in case, the minimum quantity is short supplied, the Corporate Debtor is entitled to raise a debit note for the short supplied quantity for differential cost of procurement from other source subject to minimum @ Rs.6.05 per SM3. In case, if the Corporate Debtor failed to lift the minimum quantity, the Applicant is entitled to raise a debit

note for the short lifted quantity @ Rs.6.05 per SM3.

98. The invoices mentioned in the item Nos. 12, 34, 54, 72, 75, 78, 80, 82 and 84 to 99 were raised in accordance with the Facility Charges clause mentioned in the Purchase Order, which states that the Applicant shall install 1 No. 20KL VIE and AV Coil for maintaining Liquid Oxygen supplies at Corporate Debtor's premises and the Corporate Debtor shall pay facility charges @ Rs.3 per litre per month of the gross capacity of VIE extra i.e., Rs.60,000/- per month excluding applicable excise duty.
99. The Applicant addressed letter, dated 26.09.2014, to the Corporate Debtor requesting for to the payment of Rs.47,51,929/- outstanding as on 31.08.2014 and a letter, dated 11.07.2016, to the Corporate Debtor requesting for payment of Rs.1,01,49,709/- excluding an interest @18% outstanding as on 30.06.2016 and for the return of residual Liquid Oxygen, return of Liquid Oxygen Storage Tank, AV Coil and related equipment.
100. The Applicant also sent email dated 17.11.2014 to the Corporate Debtor regarding payment of



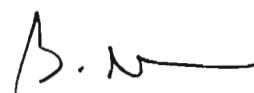
outstanding amount of Rs.60,94,019/- as on 31.10.2014.

101. Pursuant to the letter of the Corporate Debtor, dated 31.03.2015, the Applicant confirmed the outstanding balance of Rs.91,31,342/- plus an amount of Rs.4,28,400/- for a period from 01.04.2015 to 31.10.2015, total balance of Rs.95,59,742/- up to October, 2015.

102. The balance up to March 2015 is Rs.91,31,342/-.

103. According to the Applicant, the subsequent invoices were raised during the period of November 2015 to May 2016, which amounts to Rs.4,28,400/- and an amount of Rs.1,44,218/- towards Central Sales Tax.

104. It is stated by the Applicant that several emails ere exchanged between IDBI Bank and the Applicant regarding the lifting of the storage tank, AV Coil and related equipment installed in the premises of the Corporate Debtor. IDBI Bank, by its letter, dated 15.02.2017, allowed the Applicant to lift the storage tank, AV Coil and related equipment from the premises of the Corporate Debtor at the Applicant's cost, risk and responsibility.



105. The Applicant also informed the IDBI Bank officials that it would be lifting the equipment on 16.03.2017, but IDBI Bank officials had requested the Applicant to defer the lifting of the equipment due to long shut down and sensitive situation prevailing in the premises of the Corporate Debtor.

106. The Applicant also wrote another letter dated 18.10.2017 to the Interim Resolution Professional mentioning about the mishaps that could occur due to the non-maintenance and lack of safety precautions in respect of storage tank and related equipment and requested to release the same.

107. The Resolution Professional informed the Applicant by email dated 09.02.2018 stating that Corporate Debtor is under CIRP Process and the Moratorium has been imposed and during Moratorium, no goods can be removed from the premises of the Corporate Debtor.

108. On 06.10.2017 i.e. before the dead line 08.10.2017 the Applicant submitted proof of claim in Form - under Regulation 7 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 substantiating the

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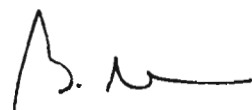
claim including the documents invoices and details of debt.

109. A claim status was released by Resolution Professional on 23.04.2018 with details of the operational creditors, amount claimed by the operational creditors, amount admitted by the Resolution Professional, amount rejected and reasons as to the rejection of the claim in the said claim status.

110. At Sl.No.150 claim of the Applicant is mentioned stating that the claim is for Rs.1,01,32,362/- and the admitted amount is Rs.51,67,213/-. The Resolution Professional rejected Rs.49,65,149/- out of the total amount claimed by the Applicant. The Resolution Professional stated that the claim is admitted to the extent it is outstanding in the Company's books of accounts.

111. No reasons have been mentioned by the Resolution Professional for rejection of the claim either in the claim status report or in response to its letter dated 26.03.2018.

112. It is stated by the Applicant that Resolution Professional cannot reject a claim solely based on the books of accounts and there is a possibility of



non-updating of books of accounts of the Corporate Debtor.

113. According to the Applicant, it must be given an opportunity to re-submit its claim of any whole or part rejection of claim by the Resolution Professional.
114. A reading of Regulation 14(2) shows that the IRP or RP shall revise the amounts of claims admitted as soon as may be practicable, when he comes across additional information warranting such information and it is also stated by the Applicant that section 60(5) of IBC, NCLT shall have jurisdiction to entertain this claim.
115. Resolution Professional filed reply. As per the books of accounts, maintained by the Corporate Debtor, the outstanding as on 31.03.2015 is Rs.51,67,213/- and therefore, the claim has been allowed to that extent only. The Resolution Professional stated that the factory closed its operations on 24.09.2014.
116. It appears that the Applicant has raised invoices as charges towards 'Fixed Facility' and 'Diesel & Power Escalation Cost' and the same has not been accounted by the Corporate Debtor to the extent of Rs.7,37,666/-. The said amount

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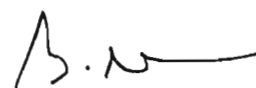
corresponds to the invoices raised against Sl.Nos. 1 to 6, 24, 28, 34, 44, 46, 54 and 103 to 109 mentioned in the table in the Application.

117. The Applicant raised invoices for the remaining portion of Rs.42,37,314/- from 14.10.2014 onwards, towards the charges of Short Lifting and Fixed Facility.

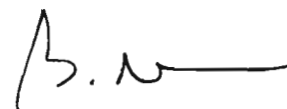
118. The lenders of the Corporate Debtor took possession of the factory under SARFAESI Act in December 2016.

119. It is stated by the Resolution Professional that the equipment of the Applicant is still lying in the factory premises of the Corporate Debtor and the Applicant continued to charge expenses till 25.05.2016, which is clearly not in the control of the Corporate Debtor.

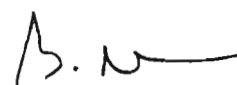
120. It is stated by the Resolution Professional that since the factory is closed down from September 2014, there is no purchase by the Corporate Debtor from the Applicant. The Applicant claimed for short lifting and fixed charges against invoices at Sl.Nos.73 to 99.



121. The Resolution Professional admitted the claim of Rs.51,67,213 out of total Rs.1,01,32,362 and rejected the rest amount of Rs.49,65,149.
122. It appears that the Resolution Professional, based on the accounts maintained by the Corporate Debtor, admitted the claim to the extent of Rs.51,67,213 as on 31.03.2015.
123. According to the Resolution Professional, due to the closure of the operations of the factory from 24.09.2014, there is a short lifting. According to the Resolution Professional, due to sustaining labour situation prevailing in the Corporate Debtor premises, the Applicant cannot lift the equipments lying in the Corporate Debtor premises and on that account the Applicant claimed the facility charges.
124. The claim of the Applicant involves legal aspects namely, whether the Applicant is entitled to claim facility charges and short lifting charges or not.
125. Taking into consideration the fact that the operations of the factory has been closed from 24.09.2014, this aspect has to be gone into while determining the claim of the Applicant.



126. The Resolution Professional without going into those aspects simply basing on the Books of the Corporate Debtor admitted certain portion of the claim amount and rejected the rest of the claim amount.
127. No reasons were given by the Resolution Professional for rejecting the claim of the Applicant in part.
128. In the case on hand, the Resolution Applicant has filed a Resolution Plan and it has been approved by the CoC and the same is placed before this Authority by the Resolution Professional for its approval and this Authority by this common order is approving the Resolution Plan filed by the Resolution Applicant.
129. In the Resolution Plan, certain amount is set apart for payment towards operational creditors.
130. Since the claim of the Applicant involves questions of law and fact, it needs to be decided on evidence.
131. The Applicant is at liberty to revive its claim before the appropriate forum, at appropriate stage and as decided by such forum, the payment shall be made to the Applicant



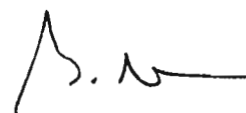
proportionately from out of the amount set apart for payment to operational creditors in the Resolution Plan.

132. This Application is disposed of accordingly.

IA 237/2018

133. This Application is filed by M/s.FLSmidth Private Limited/ Operational Creditor u/s.60 of the Insolvency and Bankruptcy Code read with Rule 23 of the National Company Law Tribunal Rules 2016 seeking to set aside the rejection of its claim by the Resolution Professional by his order dated 15.05.2018 as uploaded in the website of the Corporate Debtor.

134. It is stated by the Applicant that the Corporate Debtor had placed a purchase order towards manufacture, supply, unloading, storage, internal handling, complete erection and supervision of commissioning of 120 TPD Lime mud re-burning system including Producer Gas Plant at Sirpur on 03.01.2004 as amended by work orders dated 07.02.2004, 13.02.2004, 04.09.2004 and 22.12.2004.



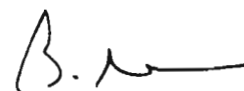
135. It is stated by the Applicant that disputes crop up between the Applicant and Corporate Debtor were ultimately referred to a panel of three Arbitrators and the Arbitral tribunal vide its award dated 21.10.2010 had awarded a sum of Rs.3,16,01,403 together with interest @ 12% per annum from the date of the award and cost of arbitration to the Applicant.

136. The Applicant became entitled for a sum of Rs.7,83,50,198/- as per the Award passed by the Arbitral Tribunal.

137. The Corporate Debtor filed an appeal against the award passed by the Arbitral Tribunal and the same was dismissed on 01.12.2016.

138. Pursuant to the advertisement given by the Interim Resolution Professional inviting claims against the Corporate Debtor, the Applicant had filed a claim petition in Form B before the Resolution Professional on 06.01.2018 claiming Rs.7,83,50,198/-.

139. The Applicant addressed an email dated 11.03.2018 to the Resolution Professional requesting him to update on its claim.

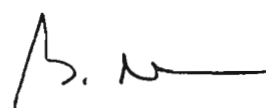


140. The Applicant came to know through newspapers that Resolution Plan in respect of Corporate Debtor was approved by the CoC and it is under consideration of NCLT, Hyderabad.

141. On seeing the said news item, the Applicant checked the website of the company and to its surprise found that in the list of operational creditors of the Corporate Debtor as on 15.05.2018 the claim of the Applicant is not admitted and the following remark is found:-

“Copy of order regarding dismissal of appeal filed against the award has not been submitted thus it sees that the matter is subjudice before the Judicial Forum. In the light of moratorium imposed during the corporate insolvency resolution process, the proceedings for these cases has been stayed. Hence the validity of the claim amount would be decided after the judicial proceedings are completed.”

142. It is stated by the Applicant that Resolution Professional has not acted in conformity with the provisions of the IBC as well as the Insolvency and Bankruptcy Board of India (Insolvency Professionals Regulations r/w IBBI Insolvency



Resolution Process for Corporate Persons)
Regulations 2016.

143. The Resolution Professional without giving any opportunity to the Applicant rejected its claim.

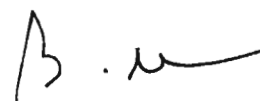
144. The Resolution Professional stated that the Applicant did not provide the copy of the order passed by the Appellate Court dismissing the appeal.

145. It is stated by the Applicant that rejecting the claim on the ground of moratorium is not correct.

146. It is pointed out by the Applicant that in view of the Judgment of the Hon'ble NCLAT rendered in Ksheeraabd Constructions Pvt. Ltd., Vs. Vijay Nirman Company Pvt. Ltd., it is held that the award passed by the Court, Tribunal or Arbitral Tribunal adjudicating on the default commonly known as award has been treated to be record of operational debt.

147. It is also stated that the Resolution Professional acted in a biased manner and did not adhere to the time lines prescribed in the Code and Regulations.

148. It is also stated that the Resolution Professional has not acted with the objectivity of amount.



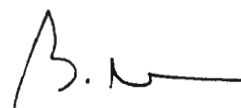
149. It is also stated that the Resolution Professional mechanically rejected the Applicants claim.

150. This Application came up for hearing before this Bench on 11.07.2018.

151. The learned counsel appearing for the resolution professional made a statement that the claim of the Applicant/operational creditor in this Application would be included in the claim of operational creditors and Applicant could be paid proportionately out of the amount reserved for the payment towards operational creditor in the Resolution Plan.

152. The Resolution Professional on the ground that the matter is subjudice before the Appellate Court against the award passed by the Arbitral Tribunal, rejected the claim of the Applicant without assigning any further reasons.

153. Now it appears that the Resolution Professional is convinced that the Appeal filed by the Corporate Debtor has been dismissed by the Appellate Tribunal and the Resolution Professional is ready to include the claim of the Applicant in the list of the claims of the operational creditors.

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154. The Resolution Professional is also ready to pay to the operational creditor from out of the amount reserved for operational creditors in the Resolution Plan on proportionate basis along with other operational creditors.

155. In these set of facts, this Application is disposed of with a direction to the Resolution Professional to include the claim of the Applicant in the claims of the operational creditors and pay the Applicant from out of the amount reserved for payment to operational creditors in the Resolution Plan on proportionate basis along with other operational creditors.

156. This Application is disposed of accordingly.

IA 162/2018

157. This Application is filed by M/s. Rama Road Lines and its sister concerns along with the affidavit of Mr. Venna Kishore Babu, Proprietor of the Applicant firms seeking a direction to the Resolution Professional of the Corporate Debtor to pay an amount of Rs.3,50,000/-.

158. It is stated by the Applicants that as per the directions of this Tribunal a sum of



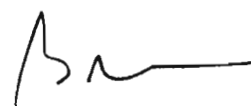
Rs.2,00,000/- was deposited by the Proprietor of the Applicant firm in IRP's designated Bank Account, a sum of Rs.1,50,000 towards part payment and a sum of Rs.50,000 towards statutory expenses. According to the Applicant he is entitled to get a sum of Rs.3,50,000.

159. It is stated that the CoC replaced IRP Mr.Mahadev Tirunagari with Mr.Ram Ratan Kanoongo as Resolution Professional.

160. It is stated that IBBI issued a circular dated 16.01.2018 to all the Registered Insolvency Professionals stating that the fees payable to any person acting as a Resolution Professional shall be included in the "Insolvency Resolution Process costs" which needs to be paid in priority under section 5(13) of the Code.

161. It is also pointed out by the Applicant that as per Sec 5(27) "Resolution Professional" for the purposes part II of the Code means an Insolvency Professional appointed to conduct the corporate insolvency resolution process and includes Interim Resolution Professional.

162. The Applicant requested the Resolution Professional Mr.Ram Ratan Kanoongo to pay Rs.3,50,000/-. The Resolution Professional sent



a reply mail stating that as per the provisions of the IB Code the petitioner that moved the Insolvency Resolution Process has to bear the costs of Interim Resolution Professional.

163. It is also stated in the reply mail that CoC in its first meeting has not ratified the IRP costs for first 30 days.

164. It is also, stated in the reply mail that the CoC ratified and paid to IRP fees for the work done by him beyond first 30 days and accordingly Rs.3,00,000 was paid to the IRP.

165. It is also stated in the reply mail that the 1st CoC meeting was conducted by Mr.Mahadev Tirunagari.

166. A perusal of the 1st meeting of the CoC held on 20.10.2014 show that CoC ratified the expenses incurred by IRP during the Resolution Process towards stationery, conveyance, utility and other expenses to the tune of Rs.9,264/- .

167. However, the CoC did not approve the expenses incurred for public announcement in Form A made by Mr.Kishore Babu Venna.



168. The CoC also resolved that the fee of the Interim Resolution Professional has to be borne by the Petitioner/Applicant.

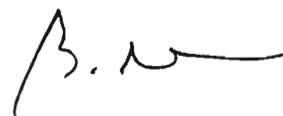
169. The question that arose for determination is whether the resolutions of the CoC in not approving the expenditure incurred in making public announcement in Form A by Mr. Kishore Babu Venna and Resolution of the CoC that the fee of the IRP for first 30 days has to be paid by the Applicant are in accordance with the provisions of the IB Code and the relevant Regulations and circulars of IBBI.

170. Section 13(2) says that a public announcement about the initiation of Corporate Insolvency Resolution Process and calling for submission of claims u/s 15 shall be made immediately after the appointment of IRP.

171. Sec 15 of the Code lays down what the public announcements should contain.

172. In this context it is necessary to refer to sec 5(13) of the Code which reads as follows:-

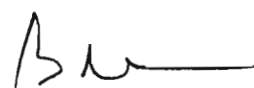
“Insolvency Resolution Process costs” means-

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- (a) The amount of any interim finance and the costs incurred in raising such finance;
- (b) The fees payable to any person acting as a resolution professional;
- (c) Any costs incurred by the resolution professional in running the business of the Corporate Debtor as a going concern;
- (d) Any costs incurred at the expense of the Government to facilitate the insolvency resolution process; and
- (e) Any other costs as may be specified by the Board;

173. Section 30(2) says the Resolution Professional shall examine each Resolution Plan received by him and satisfied with the Resolution Plan provides for the payment of Insolvency Resolution Process costs in a manner specified by the Board in priority to the repayment of other debts of the Corporate Debtor.

174. Section 53(1)(a) of the Code says the proceeds from the sale of the liquidation assets shall be distributed by giving first priority to the



insolvency resolution process costs and the liquidation costs paid in full.

175. As already pointed out, Section 5(13) says what constitute Insolvency Resolution Process costs.

176. The fee paid to the Interim Resolution Professional certainly amounts to Insolvency Resolution Process costs since Sec 5(27) says Resolution Professional means an Insolvency Professional appointed to conduct the CIRP Process and includes Interim Resolution Professional.

177. The publication that is made after admission of the Application and after appointment of IRP by this Authority is also a statutory function in the Corporate Insolvency Resolution Process.

178. Therefore, the fee payable to the IRP for first 30 days forms part of Insolvency Resolution Process costs. Similarly, the expenses incurred towards public announcement in Form A shall also form part of Insolvency Resolution Process costs.

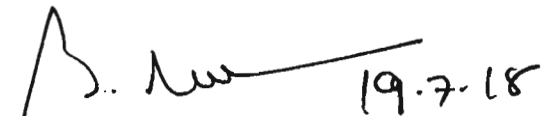
179. Therefore, the resolutions passed by the CoC not ratifying the expenses incurred in respect of public announcement in Form A and asking the original petitioner to pay the remuneration to the



IRP for first 30 days is against the provisions of the IB Code and the IBBI circular dated 16.01.2018.

180. Therefore, the Resolution Professional is directed to pay the Applicant No.1 the publication expenses and as well as the remuneration of the IRP, for first 30 days if not already paid.

181. This Application is disposed of accordingly.


BIKKI RAVEENDRA BABU
MEMBER JUDICIAL