



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

COURT – IV

8.

IA 2289(MB)2024 IN
C.P. (IB)/1183(MB)2023

CORAM:

MS. ANU JAGMOHAN SINGH
MEMBER (Technical)

SHRI KISHORE VEMULAPALLI
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON **09.05.2024**

NAME OF THE PARTIES: Synergy Wood And Glass Private Limited
Vs
Euro Wood Lumber Private Limited

SECTION: 7, 60(5) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

1. Mr. Rohit Gupta, Ld. Counsel for the Applicant in IA-2289/2024 present.
2. **IA 2289(MB)2024:** This is an application filed u/s 22(3) Read with Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules, 2016 on behalf of the Applicant who is the secured financial creditor of the Corporate Debtor with 47.14% voting share in the CoC for seeking following reliefs:
 - a. Replace the Interim Resolution Professional of the Corporate Debtor with Ms. Namrata Amol Randeri (IBBI/IPA-001/IP-P01585/2019-2020/12495) as the Resolution Professional of the Corporate Debtor:



- b. In alternative to prayer (a), appoint an independent Resolution Professional of the Corporate Debtor as deemed appropriate by the Hon'ble Tribunal;
 - c. Direct the Interim Resolution Professional to handover all assets, materials and affairs of the Corporate debtor to the resolution professional of the cd expeditiously;
 - d. During the pendency of the present Interlocutory Application, restrain the IRP from admitting any claims for financial debt in respect of the Corporate Debtor;
 - e. Ex-parte ad-interim relief in terms of prayer clause d;
3. It is submitted that the IRP placed the agenda for replacement of the IRP with the new Resolution Professional in the first CoC meeting held on 08.04.2024. However, the CoC meeting concluded and neither of the two agendas (appointment of new RP/continuation of IRP as RP) were approved with requisite majority. In view of this conflict the IRP informed the CoC that he would continue to act as the IRP of the Corporate Debtor.
4. It is also submitted that as per provisions of the IBC (Section 22(2) the CoC is either required to confirm the appointment of IRP as RP or replace the IRP with new RP in the first CoC meeting with a majority of at least 66%.



5. It is submitted that due to the conflict in appointment of the RP there is significant delay in the CIRP process causing serious prejudice to the applicant. Hence, this application.
6. Ld. Counsel for the Applicant relied upon the order passed by coordinate Bench wherein in a similar situation the bench have in exercise of power 11 of NCLT Rules, 2016 appointed an independent RP from the panel of the IBBI. While passing the said order the Coordinate bench has relied upon the judgment of NCLT Ahmedabad in the case of "*Allahabad Bank V/s. Anil Kumar IRP for KSL & Industries Ltd*" wherein it was categorically stated that:

"Under such circumstances, when there is a conflict and no consensus is reached by the majority of voting share to appoint the IRP/RP so proposed by the Applicant, it is expedient to appoint an independent IRP/RP to break any kind of stalemate between the Financial Creditors. Moreover, the very object of IB Code is to complete the CIRP in the time bound manner and if the dispute with regard to the IRP will continue, in that event, the very object of the IB Code will get frustrated. The IB Code prescribes timelines for various activities of the CIRP. It is mandatory to complete a CIRP within 180 days, extendable by a one-time extension of



up to 90 days M/s. Surendra Trading Company v. M/s. Juggilal Kamlapat Jute Mills Company Limited & Ors.].

Though as per Section 7 of the IB code, the Financial Creditor has the prerogative to propose the name of the IRP/RP and thereafter, they may change it by filing an application under Section 22 of the IB Code However, to resolve this issue and to end the stalemate between the secured and unsecured Financial Creditors, this Bench in exercise of power under Rule 11 of the NCLT Rules 2016, do hereby appoint Mr. Kiran Shah as the new IRP/RP and direct him to convene the CoC meeting and complete the CIRP as early as possible." Further, the period which is consumed in deciding this Application as well as the lockdown period i.e. from 25.03.2020 to 31.05.2020 is exempted."

7. The said of NCLT Ahmedabad was upheld by Hon'ble NCLAT in Company Appeal (AT) (Insolvency)No. 786/2020 vide order dated 20.07.2021.
8. Taking strength from the order cited above which has been subsequently upheld by Hon'ble NCLAT and in order to end the stalemate in the COC so as to enable the CIRP to proceed within the prescribed guidelines, this bench in exercise of powers under Rule 11 of NCLT Rules, 2016 hereby appoints Mr. Mr. Rakesh Bothra having Registration No. IBBI/IPA-001/IP-



P01758/2019-2020/12675, e-mail: ip.rakeshbothra@gmail.com, Mob.No.

9022919819 as the new RP and directs him to take charge from the present

IRP and complete the CIRP process within the prescribed timelines.

9. With the above directions, IA- IA 2289(MB)2024 is disposed of.

Sd/-

ANU JAGMOHAN SINGH
Member (Technical)

Sd/-

KISHORE VEMULAPALLI
Member (Judicial)