

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
VC AND PHYSICAL (HYBRID) MODE
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
24-04-2024 AT 10:30 AM**

**CP(IB) No. 25/7/HDB/2022
AND
IA (IBC) 654, 486 & 821/2024 in CP(IB) No. 25/7/HDB/2022
u/s. 7 of IBC, 2016**

IN THE MATTER OF:

Allied Hi-tech Industries Pvt Ltd

...Financial Creditor

AND

Karvy Data Management Services Limited

...Corporate Debtor

C O R A M:-

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

ORDER

IA (IBC) 654/2024

Orders pronounced. in the result this **application is disposed of as infructuous.**

IA (IBC) 486/2024

No representation for the applicant. Learned Counsel Mr Bendi Ravi Teja, for respondent present physically.

Later learned Counsel Ms Kopal Sharraf, for applicant present through Video Conference.

Counter of Respondent no.1 filed. Rejoinder filed. Call on 29.05.2024.

IA (IBC) 821/2024

Learned counsel Mr B Ravi Teja, for applicant present physically.

Issue Notice to the respondent by registered/ speed post with acknowledgment due and through e-mail, to be taken up within 3 days' time. Meanwhile, counter if any to be filed by the respondent within 10 days' time. Posted to 29.05.2024 for filing proof of service and for counter.

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)

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

**IA.No. 654 of 2024
in
CP(IB). No.25/ 7 / HDB/ 2022**

*Under Section 60(5) of Insolvency and Bankruptcy Code, 2016 read with
Rule 11 of the National Company Law Tribunal Rules, 2016.*

IN THE MATTER OF

Smt. Suhasini Ashok B
Interim Resolution Professional,
1st Floor, Golden Heights, Plot No.9,
Opp: Raheja IT Mindspace,
HUDA Techno Enclave, Madhapur,
Hyderabad, Telangana – 500081.

...Applicant/ Resolution Professional

IN THE MATTER OF:

M/s. Allied Hi-Tech Industries Private Limited

... Financial Creditor

AND

Karvy Data Management Services Limited

... Corporate Debtor

DATE OF ORDER: 24.04.2024

Coram:

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA,
HON'BLE MEMBER (JUDICIAL)
SHRI CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

Parties / Counsels Present

For the Applicant : Mr. Bendi Raviteja, Counsel

PER BENCH

ORDER

1. The present Application is filed by the Applicant/Resolution Professional under Section 60(5) of Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016 praying to allow this Application and consequently, allow the Applicant to enter into a leave and license agreement and pass such order/directions as this Hon'ble Bench may deem fit and proper in the facts and circumstances of the case.
2. **Gist of the Application:**
 - 2.1 It is averred that this Hon'ble Tribunal vide order dated 15.09.2023 in CP (IB) No.25/7/HDB/2022 admitted M/s. Karvy Data Management Services Limited/ Corporate Debtor into Corporate Insolvency Resolution Process ("CIRP") and appointed Mr. Kranthi Kumar Kedari as Interim Resolution Professional ("IRP").
 - 2.2 It is stated that the erstwhile RP vide email dated 20.09.2023, informed this Hon'ble Tribunal that his AFA has not been renewed by the IBBI. Thereafter, this Hon'ble Tribunal suo moto took the matter on 20.09.2023 and appointed the Applicant herein as the IRP of the Corporate Debtor.

2.3 It is stated that prior to initiation of Corporate Insolvency Resolution Process against the Corporate Debtor, a FIR No. 78/2021 dated 22.04.2021 against M/s.Karvy Stock Broking Limited and its directors under Section 420 of Indian Penal Code and FIR No.86/2021 dated 01.05.2021 against M/s. Karvy Comtrade Limited & its directors under Section 420 of IPC, was registered in Central Crime Station, Hyderabad. Subsequently, an Investigation under Prevention of Money Laundering Act, 2002 (“PMLA”), was initiated vide File No. ECIR/HYZO/14/2021 by the Directorate of Enforcement, Hyderabad Zonal Office.

2.4 It is stated that Provisional Attachment Order (PAO) No. 06/2022 dated 08.03.2022, under Section 5(1) PMLA was issued, and properties valued at Rs.1984.84 Crore (value as mentioned in PAO No. 06/2022) were attached.

Further, the PAO reads out as follows:

“All Computers, furniture and fixtures other movable assets, receivables, bank balances, fixed deposits, term deposits, intangible assets, trade license/s, brand value, goodwill etc. of M/s. Karvy data Management Services Limited and its subsidiaries”. The same is valued at Rs.904.47 crores (value as mentioned in PAO No.06/2022).

2.5 It is stated that upon issuance of PAO No. 06/2022 dated 08.03.2022, the Directorate of Enforcement filed Original Complaint (Operational Creditor) No. 1680 of 2022 under Section 5(5) of PMLA before the Adjudicating Authority (PMLA) New Delhi against the Corporate Debtor. The Adjudicating Authority issued Show Cause Notice dated 22.04.2022 to Corporate Debtor, fixing date of compliance on or before 05.05.2022. The Corporate Debtor sought extension of time of four weeks for filing

their reply before the Adjudicating Authority (PMLA), New Delhi. The Adjudicating Authority (PMLA), New Delhi granted extension of two weeks to Corporate Debtor to file their replies on or before 20.06.2022.

2.6 It is stated that the Corporate Debtor along with its associate companies in O.C.No. 1680 of 2022 filed WP.No.27051 of 2022 before the Hon'ble High Court for the State of Telangana, Hyderabad, seeking for extension of time by 2 months to file their reply before Adjudicating Authority (PMLA), New Delhi. The said WP.No.27051 of 2022 was disposed by granting one month extension to the Corporate Debtor. Thereafter, Corporate Debtor along with its associate companies in O.C.No. 1680 of 2022 filed WP.No.30732 of 2022 & WP.No. 30753 of 2022 before the Hon'ble High Court for the State of Telangana, Hyderabad, seeking for further extension of time by 2 months to file their reply before Adjudicating Authority (PMLA), New Delhi. Subsequently, Corporate Debtor along with its associate companies in O.C. No. 1680 of 2022 filed their replies and hearing was conducted on 15 November 2022 by a single member of Adjudicating Authority (PMLA), New Delhi. On 01.12.2022, Single member of Adjudicating Authority (PMLA), New Delhi, confirmed the Provisional Attachment Order (PAO) No. 06/2022 vide Confirmation Order dated 01.12.2022.

2.7 It is averred that the Corporate Debtor along with its associate companies in O.C. No. 1680 of 2022, on 07.12.2022, filed WP No. 44343 of 2022 along with IA No. 1 of 2022 before the Hon'ble High Court for the State of Telangana, Hyderabad and Corporate Debtor, i.e., M/s Karvy Data Management Service Ltd, was Petitioner No. 4 in the said Writ Petition.

2.8 It is stated that the Learned Single Judge of the Hon'ble High Court for the State of Telangana, Hyderabad vide Common Order dated 13.03.2023 in WP No. 34238 of 2022, WP No. 34627 of 2022, IA No. 1 of 2022 in WP No. 41133 of 2022, IA No. 1 of 2022 in WP No. 44343 of 2022. Order in IA No. 1 of 2022 in WP No. 44343 of 2022 passed the following Order (relevant operating portion applicable to Corporate Debtor is reproduced hereinbelow):

“(iii) IA No. 1 of 2022 in WP No. 44343 of 2022 is allowed, and the Order dated 01/12/2022 confirming the provisional attachment of properties is stayed along with all further proceedings in relation to OC No. 1680 of 2022 till the Adjudicating Authority is duly constituted either with a single member having experience in the field of law or with two members one of whom shall necessarily be a member having experience in the field of law.”

The copy of Common Order dated 13 March 2023 in WP No. 34238 of 2022, WP No. 34627 of 2022, IA No. 1 of 2022 in WP No. 41133 of 2022, IA No. 1 of 2022 in WP No. 44343 of 2022 passed by Hon'ble High Court for the State of Telangana, Hyderabad is attached hereto and marked as **Annexure-A** to the application.

2.9 It is stated that aggrieved by the Common Order dated 13.03.2023 in WP No. 34238 of 2022, WP No. 34627 of 2022, IA No. 1 of 2022 in WP No. 41133 of 2022, IA No. 1 of 2022 in WP No. 44343 of 2022. Order in IA No. 1 of 2022 in WP No. 44343 of 2022, the Directorate of Enforcement filed an Intra-Court Appeal before the Division Bench of the Hon'ble High Court for the State of Telangana, Hyderabad vide WA No. 604 of 2023 in which Corporate Debtor is arrayed as Respondent No. 4. The said Writ Appeal is still pending before the Hon'ble High Court and in the

meanwhile during the pendency of the said Writ Appeal the Hon'ble High Court vide Order dated 05.10.2023, directed the parties to maintain status quo in respect of properties which were attached in pursuance of the impugned provisional orders of attachment. The copy of Order dated 05.10.2023 in WA 604 of 2023 passed by Hon'ble High Court for the State of Telangana, Hyderabad is attached hereto and marked as **Annexure-B** to the application.

2.10 It is stated that prior to the status quo Order dated 05.10.2023 in WA 604 of 2023 passed by Hon'ble High Court for the State of Telangana, Hyderabad, this Hon'ble Tribunal vide Order dated 15.09.2023 in the above captioned Company Petition, initiated Corporate Insolvency Resolution Process against the Corporate Debtor i.e., M/s Karvy Data Management Services Limited and declared moratorium under Section 14 of the Code and appointed Interim Resolution Professional.

2.11 It is submitted that in accordance with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution process for Corporate Persons) Regulations, 2016 ("CIRP Regulations"), a Public Announcement in prescribed Form A dated 23.09.2023 was also published and accordingly, the last date for submission of claims as per public announcement was 05.10.2023.

2.12 It is stated that Andhra Pradesh State Financial Corporation ("APSFC") filed its claim amounting to Rs.10,73,88,439/- (Rupees Ten Crore Seventy-Three Lakh Eighty-Eight Thousand Four Hundred and Thirty Nine Only) in Form B to the Applicant, however, the same was not admitted by the Applicant vide email dated 21.12.2023. Further, APSFC

challenged the said non-admission of claim vide IA(IBC) No. 392 of 2024 before this Hon'ble Tribunal and the same is pending.

- 2.13 It is further submitted that APSFC and M/s Karvy Reality (India) Limited have executed a Lease Agreement dated 27.02.2017, wherein APSFC leased out its premises, i.e., 2nd, 3rd, and 4th floors of South Block of APSFC building admeasuring 39,963 Sq.Ft., located at Plot Nos 38 and 39, Fina Financial District, Nanakramguda, Serilingampally Mandal, Ranga Reddy District, Telangana, for 10 years. It is pertinent to mention that there is no privity of contract between Corporate Debtor and APSFC.
- 2.14 It is stated that though the said Lease Agreement dated 27.02.2017 was only between APSFC and M/s Karvy Reality (India) Limited the premises APSFC building was used for operations/Accounts team of Corporate Debtor and was functioning out of this premise. Also, the registered office of the Corporate Debtor as per the ROC records is the said premise. But, however, on the basis of want of privity of contract between APSFC and the Corporate Debtor, the claim of APSFC was rejected by the Applicant.
- 2.15 It is averred that in the said premises the Corporate Debtor has installed custom made equipment's, furniture and fittings, which are of great value. As per the provisional financials as on Insolvency Commencement Date on 15.09.2023, the Provisional financials shared with the Interim Resolution Professional consists of the equipment's attached to this premise amounts to Rs 1,11,86,035/- (Rupees One Crore Eleven Lakh Eighty-Six Thousand and Thirty-Five Only). Copy of inventory list along with its value is attached hereto and annexed as **Annexure- C** to the application.

2.16 It is stated that due to the subsistence of Order dated 05.10.2023 in WA. 604 of 2023 passed by Hon'ble High Court for the State of Telangana, Hyderabad, to maintain status-quo in respect of the properties, which were attached in pursuance of the impugned provisional orders of Attachment ED, the Corporate Debtor represented by the Applicant can neither sell its assets (restricting to only the specified movables assets of Corporate Debtor located at the said premises), create any interest nor can have it removed as well because that would erode the value of the movable assets attached to the premises stated above. Further, any action taken to this effect would result in violation of stay order granted by the Hon'ble High Court. However, a third party has shown its interest in taking on lease the equipment's of the Corporate Debtor located at the premises. But due to the Interim Order of the Hon'ble Court to maintain status quo, the Applicant herein cannot sell the assets of the Corporate Debtor.

2.17 It is stated that in order to maximize the value of assets as well as not to contravene the Order of Hon'ble High Court, only recourse left with the Applicant herein is to enter into a leave and license agreement with the third party. As this agreement will give only right to use and no other right will be created in favour of the third party. It is further stated that whatever amount will be received as way of rent, by virtue of entering into a leave and license agreement, will be deposited by the Applicant herein in a separate escrow account.

3. In the light of the contest, the short and only point that requires for consideration is ;

Whether the leave of this Tribunal is required for the Applicant to enter into a leave and license agreement in order to maximise the value of the assets?

4. In order to answer the point, we straight way refer to the Sections 17, 18 and 20 of the Insolvency and Bankruptcy Code, 2016 gives sufficient powers to Interim Resolution Professional to manage the affairs of the Corporate Debtor and take all such actions as are necessary to keep the Corporate Debtor as a going concern. The relevant part of the above Sections is reproduced below for more clarity.

“Section 17. Management of affairs of corporate debtor by interim resolution professional

(1) From the date of appointment of the interim resolution professional, -

- (a) The management of the affairs of the corporate debtor shall vest in the interim resolution professional;*
- (b) The powers of the board of directors or the partners of the corporate debtor, as the case may be, shall stand suspended and be exercised by the interim resolution professional;*

.....

(2) The interim resolution professional vested with the management of the corporate debtor shall –

.....

(e) be responsible for complying with the requirements under any law for the time being in force on behalf of the corporate debtor.]”

“Section 18. Duties of interim resolution professional

(1) The interim resolution professional shall perform the following duties, namely: -

....

(d) monitor the assets of the corporate debtor and manage its operations until a resolution professional is appointed by the committee of creditors;”

“Section 20. Management of operations of corporate debtor as going concern

(1) The interim resolution professional shall make every endeavour to protect and preserve the value of the property of the corporate debtor and manage the operations of the corporate debtor as a going concern.

(2) For the purposes of sub-section (1), the interim resolution professional shall have the authority-

.....

(e) to take all such actions as are necessary to keep the corporate debtor as a going concern.”

5. We can find out from the plain reading of the above Sections that interim resolution professional is competent enough as per law to take a decision to enter into a leave and licence agreement of assets of the Corporate Debtor and does not require any order of this Tribunal in this respect.
6. In view of the above, this application is disposed of as infructuous.

SD

Charan Singh
Member (Technical)

SD

Dr.Venkata Ramakrishna Badarinath Nandula
Member (Judicial)

Sridher/pavani