

IN THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH (COURT – II)
(Through Hybrid Mode)

Item No. 3

IA(IBC)(PLAN) /5(CH)2024, IA No. 2790/23
2814/23, 1736/23
IA(I.B.C)/702(CH)2024, IA(I.B.C)/703(CH)2024
IA(I.B.C)/991(CH)2024
In
CP(IB) No. 132/Chd/Hry/2022
(Admitted)

IN THE MATTER OF:

Capriso Finance Ltd.

...Petitioner-Financial Creditor

Versus

Trishul Dream Homes Ltd.

...Respondent Corporate Debtor

Under Section: 7, 30, 60(5), 19(2), 43(1) r/w 44 (1), 45 (1) IBC 2016
Rule: 11 of NCLT

Order delivered on 25.04.2024

CORAM:

SHRI. SATYA RANJAN PRASAD,
HON'BLE MEMBER (T)

SHRI. P.S.N. PRASAD,
HON'BLE MEMBER (J)

PRESENT:

For the RP-applicant in IA : Mr. Aalok Jagga and Mr. APS Madaan,
No.1736/2023, Advocates
IA(I.B.C)/702(CH)2024

For the applicant in IA : Mr. Rakesh Kumar, Advocate
Nos.2814/2023,
2790/2023

For the respondent No.2 : Mr. Arun Saxena, Advocate
and 3 in IA No.1736/2023
and respondent Nos.1,2, 4,
5 and 6 in
IA(I.B.C)/702(CH)2024 &
for respondent Nos.1,2 and
6 in IA(I.B.C)/703(CH)2024

ORDER

IA(IBC)(PLAN) /5(CH)2024

The application under Section 19(2) of IBC 2016, seeking directions against the respondents to co-operate with the Interim Resolution Professional and provide the necessary information/relevant documents, handover the assets, books of accounts etc. of the corporate debtor as sought by the applicant.

Let the matter be posted to 22.05.2024.

IA No.2790/23

This is an application filed under Section 60(5) of I&B Code read with Rule 11 of NCLT Rules seeking a direction to the Resolution Professional to approve the amount of claim filed by the petitioner-financial creditor (Section 7 applicant) against the respondent-corporate debtor.

We have heard the submissions made by the learned counsel for the applicant (Financial Creditor/Section 7 petitioner). The Section 7 petitioner accepts the Resolution Professional to admit the principal amount as well as interest claimed in Section 7 petition. In the present application, the applicant has sought a direction to the resolution professional to admit the claim of applicants in respect of their admitted financial debt of the respondent-corporate debtor and modify their voting right in the COC accordingly. In fact, the Resolution Professional is duty bound to collate the claim. Learned counsel for the Resolution Professional has submitted that they have collated the claim lodged by the petitioner-financial creditors and as the petitioner-financial creditor has failed to place any document which entitles him for the alleged interest portion, the Resolution Professional could admit the amount

which is principal amount and in the absence of any agreement/document entitling the applicant for interest. The resolution professional *suo motu* cannot award any interest, action taken by the Resolution Professional appears to be generally and legally in order, therefore, present application stands dismissed.

Further this Adjudicating Authority is of the view that RP has not committed any act in violation of Regulation 16A (7) of IBBI (IRP for CP Regulations 2016) as the same is applicable only in case of Home-buyers.

In view of the above, present application bearing IA No.2790/23 is therefore stands dismissed.

IA. No.2814/23

This is an application under Section 60(5) of I&B r/w Rule 11 of NCLT Rules, 2016 seeking adjudication on the reasonability of expression of interest published by RP vide Form G on 12.09.2023. We have heard the submissions made by the learned counsel for the applicant, in fact the applicant is a member of a COC being (Section 7 petitioner) the applicant has prayed for allowing the present application and direct the RP to laid down to invite fresh and fair and justified criteria of expression of interest and also to pass other and further orders, if any, as may deem fit in the interest of justice. Learned counsel for the RP has submitted that expression of interest was deliberated by the COC in its 4th meeting held on 06.09.2024 and the criteria has been fixed based on the majority decision of the COC.

Now the matter is at the stage of approval for resolution plan. The applicant being the original petitioner-financial creditor and a member of COC would have been taken necessary steps before COC and when COC by

majority decisions accepts RFP the correctness of it cannot be deliberated by this Adjudicating Authority as the commercial wisdom of the COC cannot be questioned.

All the contentions raised by the applicant in various paragraphs in his application have been carefully considered by this Adjudicating Authority.

Since the commercial wisdom of COC cannot be questioned, present application bearing IA. No. 2814/23 stands dismissed without cost.

IA No.1736/23

The counsel for the Resolution Professional has submitted that out of the four respondents, the Section 19(2) relief is pressed against respondent Nos.1, 2 and 3. The counsel has prayed for discharge of respondent No.4 from the array of respondents in the matter. Having regard to the submissions made by the counsel for the RP this Adjudicating Authority drops the respondent No.4-BPTP Police Station Faridabad, having office at Sector 76, Mortzapur, Haryana-121004 from the array of respondents.

Counsel for respondent Nos.2 and 3 has submitted that his client has already furnished the available information and if any additional information is required by RP the details of the required additional information may be sent to the counsel so that his counsel will prosecute his client to provide the same and make efforts for early submission of the information. Therefore, let the matter be posted after two weeks.

Let the matter be posted to 22.05.2024.

IA(I.B.C)/702(CH)2024

Heard, the submissions made by the counsel for the Resolution Professional. Mr. Arun Saxena, Advocate is present and submitted that he

has appeared on behalf of respondent Nos.1,2,4,5 and 6 and vakalatnama has also been filed on behalf of respondent Nos.1,2,4,5 and 6. The counsel for the respondent Nos.1,2,4,5 and 6 has prayed for grant of two weeks' time for filing the reply with a copy in advance to the opposite counsel. Time prayed for is granted. One week thereafter is granted for applicant for filing rejoinder with a copy in advance to the opposite counsel.

None has appeared on behalf of respondent No.3 at the time of hearing of the matter. Issue fresh notice to respondent No.3 of this application to the respondent No.3. The applicant shall collect the notices from the Registry and send the same by speed post as well as by e-mail, if available, immediately to the respondent(s) at their registered address attaching therewith copy of the application and the entire paper book and the copy of this order.

In case, the service of speed post on the aforesaid respondent No.3 is not affected, the applicant shall adopt the mode of substituted service and the notice of hearing be advertised in two daily newspapers (one English and one Hindi) having wide circulation in the area.

The applicant shall file affidavit of service supported by postal receipt, tracking report, paper clippings and copy of e-mail within two weeks.

Reply be filed within two weeks after receipt of notice with a copy in advance to the counsel opposite. Rejoinder thereto, if any, be filed two weeks thereafter with a copy in advance to the counsel opposite.

Let the matter be posted to 22.05.2024.

IA(I.B.C)/703(CH)2024

Heard the submissions made by the counsel for the Resolution Professional. This is an application filed under Section 45(1) of I&B Code,

2016 r/w relevant regulations along with the supporting document. Mr, Arun Saxena, Advocate appeared on behalf of respondent Nos.1,2 and 6 and also filed vakalatnama on behalf of respondent Nos.1,2 and 6. The counsel for the respondent Nos.1,2 and 6 has prayed for grant of two weeks' time for filing the reply with a copy in advance to the opposite counsel. Time prayed for is granted. One week thereafter is granted for applicant for filing rejoinder with a copy in advance to the opposite counsel.

None has appeared on behalf of all the other respondents at the time of hearing of the matter. Issue fresh notice to all other respondents of this application to the all the other respondents. The applicant shall collect the notices from the Registry and send the same by speed post as well as by e-mail, if available, immediately to the all the other respondents at their registered address attaching therewith copy of the application and the entire paper book and the copy of this order.

In case, the service of speed post on the aforesaid all other respondents are not affected, the applicant shall adopt the mode of substituted service and the notice of hearing be advertised in two daily newspapers (one English and one Hindi) having wide circulation in the area.

The applicant shall file affidavit of service supported by postal receipt, tracking report, paper clippings and copy of e-mail within two weeks.

Reply be filed within two weeks after receipt of notice with a copy in advance to the counsel opposite. Rejoinder thereto, if any, be filed two weeks thereafter with a copy in advance to the counsel opposite.

Let the matter be posted to 22.05.2024.

IA(I.B.C)/991(CH)2024

This is an application filed under Rule 11 of the NCLT Rules, 2016 to place on record the progress report in the matter for the period starting from 22.02.2024 to 12.03.2024. The same is taken on record subject to just exceptions. Thus IA(I.B.C)/991(CH)2024 is allowed.

Sd/-

**(SATYA RANJAN PRASAD)
HON'BLE MEMBER (T)**

Sd/-

**(DR. P.S.N. PRASAD)
HON'BLE MEMBER (J)**