

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
COURT - IV

I.A/1669/ND/2024

IN

C.P. (IB) 142/ND/2022

**[UNDER SECTION 27 OF THE INSOLVENCY AND BANKRUPTCY CODE,
2016 READ WITH RULE 11 OF THE NCLT RULES, 2016]**

IN THE MATTER OF:

COMMITTEE OF CREDITORS,

Mahamay Building Solution Private Limited ... Applicant

(under CIRP),

**through Mr. Sachin Yadav, Financial
Creditor.**

VERSUS

SANJEET KUMAR SHARMA,

Interim Resolution Professional

Mahamay Building Solution Private Limited

(under CIRP)

... Respondent

AND IN THE MATTER OF:

**M/S. DIGITAL COMPUSYSTEMS PRIVATE
LIMITED**

... Financial Creditor

VERSUS

**M/S. MAHAMAY BUILDING SOLUTION
PRIVATE LIMITED**

... Corporate Debtor

CORAM:

SH. MANNI SANKARIAH SHANMUGA SUNDARAM,

HON'BLE MEMBER (JUDICIAL)

DR. SANJEEV RANJAN,

HON'BLE MEMBER (TECHNICAL)

For the Applicant : PCS Ashok Kumar Tripathi

For the Respondent : Adv. Vaibhav Tyagi

Order Delivered on:24.04.2024

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I.A/1669/ND/2024

IN

C.P. (IB) 142/ND/2022

Date of Order:24.04.2024

ORDER

PER: DR. SANJEEV RANJAN, MEMBER (TECHNICAL)

The instant application is filed on behalf of Committee of Creditors of M/s. Mahamay Building Solution Private Limited ('Corporate Debtor'), through Mr. Sachin Yadav, one of the Financial Creditor under Section 27 of the Insolvency And Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules 2016 inter-alia seeking the following prayer:-

- (i) Pass an order replacing the existing Interim Resolution Professional of Corporate Debtor i.e., the Respondent and confirm the name of Mr. Punit Handa to act as Resolution Professional of the Corporate Debtor.
- (ii) Forward the name of Mr. Punit Handa to the Board for the confirmation in view of Section 27(4) of the Code, 2016.
- (iii) Pass such further order/orders as this Hon'ble Adjudicating Authority may deem fit and proper in the circumstances of the case in the interest of Justice.

2. Briefly stated, facts of the present case as averred by the Applicant are that this Hon'ble Adjudicating Authority had vide order dated 23.08.2022 had initiated Corporate Insolvency Resolution Process against M/s. Mahamay Building Solution Private Limited ('Corporate Debtor') on an application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 and appointed Mr. Sanjeet Kumar Sharma as the Interim Resolution Professional of the Corporate Debtor. However, the suspended directors of the Corporate Debtor had preferred an appeal before the Hon'ble National Company Law Appellate Tribunal challenging the CIRP admission order dated 23.08.2022, and accordingly, the constitution of COC was stayed by the Hon'ble NCLAT vide order dated 15.09.2022 and

the said appeal was dismissed as withdrawn vide order dated 17.10.2023.

3. Further, it was submitted that pursuant to the stay on constitution of CoC was vacated, the Committee of Creditors was constituted as per Section 21 of the Code, 2016 read with Regulation 17 of Insolvency and Bankruptcy Board of India,(Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and Mr. Sanjeet Kumar Sharma, IRP initially appointed by the Hon'ble Adjudicating Authority, vide the Admission Order dated 23.08.2022, was not confirmed as the Resolution Professional ('RP') in the first meeting of the COC held on 25.12.2023. Subsequently, the COC at their second meeting held on 25.01.2024, appointed Mr. Punit Handa, Insolvency Professional, Registration No. IBBI/IPA-002/IP-N00298/2017- 2018/10857 as the 'RP' in the above mentioned Company Petition by passing a resolution by requisite majority. Accordingly, prays for the appointment of Mr. Punit Handa as the Resolution Professional of the Corporate Debtor.
4. Heard and perused the record. The Second Meeting of the COC of the Corporate Debtor was held on 25.01.2024 through video conferencing with e-voting commenced from 04:00 PM, January 27, 2024 (Saturday), till 7:00 PM, January 29, 2024 (Monday) wherein the resolution No. B3 with respect to appointment of Mr. Punit Handa as the Resolution Professional of the Corporate Debtor was proposed for voting. The consent in Form AA given by Mr. Punit Handa, proposed resolution professional is placed on record as Annexure -V. The Resolution was discussed in the CoC Meeting and was approved with 94.82% voting in favor. The relevant extract of the said resolution is reproduced herein below:-

To discuss the appointment of RP (Resolution Professional) of the Corporate Debtor along with his monthly Remuneration

Facts and Explanatory Statement:

The Chairman appraised that as per section 22(2) of IBC 2016, the COC in its first meeting shall decide to appoint the Interim Resolution Professional as Resolution Professional or to replace the Interim Resolution Professional by another Resolution Professional. The IRP being eligible offers himself for the appointment as a RP in the first COC meeting.

Further, the chairman appraised that IRP was not confirmed as RP in the first coc meeting. As Resolution Professional (RP) name was proposed by one of financial creditor in class along with terms of appointment. Hence, below mention resolution was proposed for voting.

Resolutions:

To consider and if found fit, to pass with or without modification the following Resolution.

"RESOLVED THAT Mr. Punit Handa, an Insolvency Professional (Registration No. IBBI/PA-002/IP-N00298/2017-18/10857) be and is hereby appointed as the Resolution Professional in the matter of Corporate Insolvency Resolution Process of MAHAMAY BUILDING SOLUTION PRIVATE LIMITED in accordance with provisions of section 22(3)(b) of the IBC-2016."

"FURTHER RESOLVED THAT the members of the Committee of Creditors is be and hereby approves the remuneration of the Resolution Professional Mr. Punit Handa, as Rs. 1.25 Lacs plus taxes per month."

"RESOLVED FURTHER THAT the member of COC of the Corporate Debtor be and is hereby authorized to do all such acts, deeds and things as may be considered necessary to give effect to the above resolution."

Certified True Copy

[Extract of the Resolution passed in the 2nd CoC Meeting]

5. Moreover, during the hearing dated 10.04.2024, the Learned Counsel for the ex-RP had submitted that he has no objection, if the present application i.e. IA No. 1669/ND/2024 seeking replacement of Resolution Professional stands

allowed. Further, the Learned Counsel for the applicant has submitted that they are ready to pay the fees and expenses to the Interim Resolution Professional for the period between 15.09.2022 to 17.10.2022.

6. In view of the aforesaid discussion, the appointment of Mr. Punit Handa, *Registration No. IBBI/IPA-002/IP-N00298/2017-2018/10857*) as Resolution professional of the Corporate Debtor is hereby confirmed. Mr. Punit Handa, proposed resolution professional is directed place on record the IP Registration Certificate and valid Authorisation for Assignment (“AFA”), within 5 days (5) from pronouncement of this order.

7. Resultantly, the present application **(I.A/1669/2024) stands allowed.**

Sd/-

(DR. SANJEEV RANJAN)
MEMBER (T)

Sd/-

(MANNI SANKARIAH SHANMUGA SUNDARAM)
MEMBER (J)