

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT - II**

**IA No. 2403 of 2022
IN
CP (IB) No. 532/(MB) 2018**

Under Section 60(5) read with Other relevant provisions and Regulations of the Insolvency and Bankruptcy Code, 2016.

**Anish Niranjana Nanavaty
Resolution Professional of V Hotels
Limited**

Having address at: Deloitte India Insolvency Professionals LLP, 32nd Floor, Tower 3, One International Centre, Senapati Bapat Marg, Elphinstone Road (West), Mumbai
.....Applicant

In the matter of

**Asset Reconstruction Company
Limited**

... Financial Creditor

Vs

V Hotels Limited

... Corporate Debtor

Order delivered on: 30.09.2022

Coram:

Hon'ble Member (Judicial) : Justice P.N. Deshmukh (Retd.)

Hon'ble Member (Technical) : Mr. Shyam Babu Gautam

Appearances:

For the Applicant : Mr. Gaurav Joshi, Advocate.
For the Corporate Debtor : Mr. Hitesh Sachar, Advocate.

ORDER

Per: Shyam Babu Gautam, Member Technical

1. This is an Application filed by the Applicant, Mr. Anish Niranjana Nanavaty who is the Resolution Professional (RP) of the Corporate Debtor seeking permission to resume the Corporate Insolvency Resolution Process (CIRP) initiated against the Corporate Debtor under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “the Code”) and praying for the following reliefs:

- a. *Admit and allow this Application;*
- b. *Permit the Resolution Professional to:*
 - (i) *Allow all stakeholders who had already filed their claims as on 31.05.2019, to update their claim as of 01.08.2022;*
 - (ii) *Allow all persons dealing with the Corporate Debtor during the period from 11.12.2019 to 01.08.2022 and having any claims against the Corporate Debtor to file their claims with the Resolution Professional in appropriate forms as per provisions of the Code and CIRP Regulations;*
 - (iii) *Allow the Resolution Professional to cause a review of all transactions undertaken by or on behalf of the Corporate Debtor during the period 11.12.2019 to 01.08.2022 from the perspective of them being preferential, undervalued, fraudulent and/or extortionate and file appropriate applications with this Hon’ble Tribunal against any such transaction*

found to be preferential, undervalued, fraudulent and/or extortionate;

(iv) *Allow the Resolution Professional to reconduct the fair value and liquidation value of the Corporate Debtor as on 01.08.2022 and use such valuation for all purposes of the Code;*

2. The Corporate Debtor was admitted into CIRP vide **Order dated 31st May 2019** (hereinafter referred to as “Original Admission Order”) by this Bench and appointed the present Applicant as the Interim Resolution Professional (IRP). The Applicant, in the capacity of IRP, proceeded to invite claims from creditors of the Corporate Debtor and after verification, constituted the Committee of Creditors (“CoC”) whose first meeting was convened on 3rd July 2019 wherein the Applicant was appointed as RP of the Corporate Debtor. The Applicant even appointed registered valuers for obtaining the fair value and liquidation value of the Corporate Debtor. But this admission Order came to be set aside by the NCLAT vide **Order dated 11th December 2019** as a result of which the Applicant was rendered *functus officio* and the functioning of the Corporate Debtor was handed back to its erstwhile directors and management. Subsequently, the Hon’ble Supreme Court set aside the order of NCLAT vide **Order dated 1st August 2022** as a consequence of which, the Corporate Debtor was remitted back to CIRP.

3. We note that since the Corporate Debtor has been re-admitted into CIRP, the responsibility of managing the affairs of the Corporate Debtor and taking appropriate steps as mandated by the Code falls back upon the Applicant, in the capacity of RP. The Applicant submits that

the claims received from the creditors back in 2019 are no longer relevant as the creditors are now entitled to claim interest on their outstanding dues and have a right to be paid from the estate of the Corporate Debtor. Additionally, the valuations obtained by the Applicant pursuant to the Original Admission Order require reassessment as the valuations obviously do not reflect the present value of the Corporate Debtor.

4. In view of the long interregnum of **965 days** from 11th December 2019 to 1st August 2022, the submissions of the Applicant are found to be reasonable. We are of the opinion that the Applicant is duty bound to perform his obligations as the RP and is allowed to take appropriate steps to proceed with the CIRP. The Corporate Debtor is liable to be re-admitted into the rigors of CIRP and released from the control of its directors and management who are at present at the helm of affairs.
5. In view of the foregoing reasons, we find it fit to allow the Application. With the above observations, IA No. 2403 of 2022 is accordingly **allowed** and disposed of.

Sd/-

SHYAM BABU GAUTAM
(MEMBER TECHNICAL)

Sd/-

JUSTICE P. N. DESHMUKH
(MEMBER JUDICIAL)