**NATIONAL COMPANY LAW TRIBUNAL**
**DIVISION BENCH (COURT– I) CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **02.03.2023 at 02.30 PM** THROUGH VIDEO CONFERENCING

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**PRESENT: JUSTICE RAMALINGAM SUDHAKAR, HON'BLE PRESIDENT**
**HON'BLE SHRI. SAMEER KAKAR, MEMBER (TECHNICAL)**

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**IN THE MATTER OF** : VME Properties Pvt Ltd

**MAIN PETITION NUMBER** : CP(IB)/85(CHE)/2021

**(IA/MA) APPLICATION NUMBERS**

IA/318(CHE)/2023; IA/1128(CHE)/2022

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206 CP(IB)/85(CHE)/2021
IA/318(CHE)/2023; IA/1128(CHE)/2022

**ORDER**

The RP is represented by the Ld. Counsel Mr. Adarsh Subramanian and the sole CoC is led by the Ld. Senior Counsel Mr. E.Omprakash through video conferencing mode.

IA/318(CHE)/2023 has been filed with the following prayers:-

*"a. Allow the instant application.*

*b. Revive the IA.No.1128/2022 filed by the Applicant in terms of the directions given by the Hon'ble National Company Law Appellate Tribunal, Chennai Bench in Judgement dated 02.02.2023 in Company Appeal (AT)(CH)(Ins) No.27/2023 titled Alchemist Asset Reconstruction Company Ltd –vs- Sapan Mohan Garg.*

*c. Exclude the period of 230 days as sought in IA.No.1128/2022 read with Affidavit dated 22.11.2022 filed by the Applicant for the reasons mentioned therein.*

*d. Exclude an additional period of 108 days from the CIRP of the Corporate Debtor, thereby allowing the CIRP to continue upto 03.05.2023.*

*e. Exclude the time period spent in de-novo adjudication of the IA.No.1128/2022 in terms of the Judgement dated 02.02.2023 of the Hon'ble National Company Law Appellate Tribunal, Chennai Bench in Company Appeal (AT)(CH)(Ins) No.27/2023, thereby allowing the CIRP to continue for such additional days with effect from 03.05.2023.*

*f. Pass such other or further and other relief(s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case."*

It is seen that order was passed by this Tribunal in IA/1128/2022 which was impugned before the Hon'ble NCLAT. The Hon'ble NCLAT has set aside the order dated 09.01.2023 and directed this Tribunal to adjudicate IA/1128/2022 de-novo with the following observations:

*"9. Considering the fact that the 'averments' and the 'Plea' made in the 1A/IBC/1128/CHE/2022 in CP/IB/85/CHE/2021 by the 'Respondent/Resolution Professional' was not taken into account in a 'proper' and 'real' perspective by the Adjudicating Authority, (National Company Law Tribunal. Division Bench-1, Chennai), and also, there is no indication in the 'Impugned Order, dated 09.01.2023 in IA/IBC/1128/CHE/2022 in CP/IB/85/CHE/2021 as to the fact, that the Additional Affidavit filed by the Respondent/Petitioner, therein, was considered in the manner projected from the point of view of the "Respondent/Resolution Professional, this 'Tribunal', at this stage, simpliciter, without expressing any opinion, on the 'Merits of the matter, and also, not delving in deep', sets aside the 'Impugned Order' dated 09.01.2023 passed in IA/IBC/1128/CHE/2022 in CP/IB/85/CHE/2021, by the Adjudicating Authority (National Company Law Tribunal, Division Bench-1, Chennai), in the interest of Justice, and remits back the matter in IA/IBC/1128/CHE/2022 in CP/IB/85/CHE/2021 to the Adjudicating Authority (National Company Law Tribunal, Division Bench-1. Chennai) for passing necessary Orders De Novo in the matter, of course, after 'Hearing, the "Respondent/Resolution Professional, by providing an opportunity of Hearing, by adhering to the 'Principles of Natural Justice', and to pass Just', 'Fair' and the reasoned Speaking Order, in 'Qualitative' and 'Quantitative terms, adverting to the 'Relief Sought' for in the 'Subject Matter' in issue and this 'Exercise, shall be carried out by the Adjudicating Authority, (National Company Law Tribunal. Division Bench-I. Chennai), within Two Weeks, from the date of passing of this 'Order', of course, uninfluenced, untrammelled with any of the 'Observations', made by this 'Tribunal" "*

As per the provisio of Sub-Section 3 of Section 12 the CIRP period shall mandatorily be completed within a period of three hundred and thirty days from the insolvency commencement date, including any extension of the period of corporate insolvency resolution process granted under this section and the time taken in legal proceedings in relation to such resolution process of the corporate debtor.

Admittedly the CIRP was ordered in this matter vide order dated 02.09.2021 and the period of 330 days is already over.

Considering the averments made by the Counsel for the RP and the Counsel for CoC that there is a resolution plan under consideration of the CoC advance stage and as the object of the Code is resolution and not liquidation as decided by the Hon'ble Supreme Court in the matter of ***K.Sashidhar –vs- Indian Overseas Bank & Ors (2019 12 SCC 150).***

We are hereby extending the CIRP period of the Corporate Debtor for a period of 30 days from the date of this order.

The RP is directed to complete the CIRP of the Corporate Debtor within the extended timeline, failing which he is directed to file the necessary application either for approval of the resolution plan or seeking liquidation of the Corporate Debtor within seven days after completion of the extended period of CIRP.

Accordingly, IA/318(CHE)/2023 and IA/1128(CHE)/2022 are **closed.**

-Sd-

**(SAMEER KAKAR)**
MEMBER (TECHNICAL)

-Sd-

**(JUSTICE RAMALINGAM SUDHAKAR)**
PRESIDENT

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