

In the National Company Law Tribunal
Mumbai Bench.

MA No. 575 in TCP No. 639/I&BC/NCLT/MB/MAH/2017

Under Section 7 of Insolvency & Bankruptcy Code 2016

In the matter of

HDFC Bank Limited : Petitioner

V/s

Nvento Foods Technologies Pvt. Ltd. : Respondent

Order delivered on: 29.11.2017

Coram: 1. Hon'ble Shri M.K. Shrawat, Member (Judicial)
2. Hon'ble Shri Bhaskara Pantula Mohan (Judicial)

Present:

For the Petitioner(s): : Mr. Athul Laji, Advocate, i/b Intralegal.

Per M.K. Shrawat, Member (Judicial).

ORDER

1. An Order was passed under section 7 of I&B Code on 23rd August, 2017 (TCP No. 639/I&B) through which the Petition of the HDFC Bank as a Financial Creditor is admitted to commence the Corporate Insolvency Resolution Process against the Corporate Debtor M/s. Nvento Foods Technologies Pvt. Ltd. for a financial debt of ₹20 lakhs. On admission an Interim Resolution Professional viz. Mr. Sanjay Kumar Lunkad was appointed. However, it has come to the notice of the Financial Creditor (HDFC Bank) that the Registration of the said IRP had already expired. For the substitution, the Financial Creditor has moved Miscellaneous Application, now under consideration wherein it is stated that as under :-

"I say that, vide Order dated 23.08.2017 the Hon'ble NCLT was pleased to admit our Company Petition and appoint Mr. Sanjay Lunkad as the Interim Insolvency Resolution Professional.

*I say that Mr. Sanjay Lunkad was qualified as an Insolvency professional for a limited period with Enrolment No. with IIPI being IP/00446 and Registration No. IBBI is IBBI/IPA-01/2016-17/703. Annexed herewith the marked as **Exhibit B** is the copy of Certificate of Registration. I say that his registration expired on 06.07.2017.*

I say that accordingly it is necessary that a new Insolvency Professional is appointed.

The Financial Creditor proposes Mr. Rajeev Mannadiar as the Resolution Professional. Mr. Rajeev Mannadiar is having Registration No. IBBI/IPA-01/IP-00320/2016-17/1904 as the Insolvency Resolution Professional. There is no disciplinary Registration No. IBBI/IPA-01/IP-00320/2016-17/1904 as the Insolvency Resolution Professional. There is no disciplinary proceedings pending against him. It is prayed that the Hon'ble NCLT may be pleased to refer the name of Mr. Rajeev Mannadiar to the Board for Confirmation."

2. On this very issue that in a situation when the Registration of IRP had expired; a view has been taken by the respected NCLT, New Delhi, Principal Bench Order dated 7.9.2017 (CA No.259(PB)/2017 in CP No. (IB)-152 (PB) of 2017) as under :-

"9. Having heard the learned counsel we are of the view that instant application warrants acceptance. In the absence of Insolvency Professional no steps can be taken to proceed with the Corporate Insolvency Process. The 'committee of creditors' can proceed with the replacement of the Resolution Professional under section 27 of the Code only if the meeting of the 'committee of creditors' is convened which obviously have to be done by Interim Resolution Professional. Mr. Ambarish Chatterjee is no longer qualified to function as a Resolution Professional and therefore would not be able to act as such leading to constitution of creditors. No claims could be invited by him.

10. In view of the above and in the interest of justice; and for smooth conduct of Corporate Insolvency Process we accept this application and appoint Mr. N.P.S. Chawla as the Resolution professionals in the instant case. However, the same shall be subject to payment of cost of Rs.25,000/- which may be deposited in the Common Corporate Fund."

3. Respectfully following the above decision the name of the proposed Resolution Professional *supra* is hereby substituted to commence the Insolvency Process. He shall submit the report of progress within 15 days time on receipt of this Order.
4. The Application is allowed.

Sd/ -

BHASKARA PANTULA MOHAN
Member (Judicial)

Date : 29.11.2017

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Sd/ -

M.K. SHRAWAT
Member (Judicial)