IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH, BENGALURU
(through web-based video conferencing platform)

I.A. No.114 of 2021 in
C.P. (IB) No.202/BB/2020
Under Sections 54, 60(5) and other applicable provisions of IBC, 2016 r/w Rule 11 of the NCLT Rules

IN THE MATTER OF:

M/s. Comfund Consulting Ltd. ... Petitioner/Corporate Applicant

AND IN THE MATTER OF I.A. No.114 OF 2021:

Ms. Ramanathan Bhuvaneshwari
Interim Resolution Professional of
M/s. Comfund Consulting Ltd.
C-006, Pioneer Paradise,
24th Main Road, 7th Phase,
JP Nagar,
Bangalore – 560 078. ... Applicant

Order delivered on 03.12.2021

Coram: 1. Hon'ble Mr. Ajay Kumar Vatsavayi, Member (Judicial)
2. Hon'ble Mr. Manoj Kumar Dubey, Member (Technical)

PRESENT:

For the Applicant/IRP : Ms. Ramanathan Bhuvaneshwari

—Sd—

ORDER

Per: Ajay Kumar Vatsavayi, Member (Judicial)

1. I.A. No.114 of 2021 in C.P.(IB)No.202/BB/2020 is filed by Ms. Ramanathan Bhuvaneshwari, Interim Resolution Professional of M/s. Comfund Consulting Ltd. under Sections 54, 60(5) and other applicable provisions of IBC, r/w Rule 11 of the NCLT Rules for dissolution of the Corporate Debtor i.e. M/s. Comfund Consulting Ltd.
2. The main Company Petition bearing C.P. (IB)No.202/BB/2020 filed by M/s. Comfund Consulting Ltd. under Section 10 of the IBC, 2016 r/w Rule 7 of I&B (Application to Adjudicating Authority) Rules, 2016 was admitted by the Adjudicating Authority, vide order dated 11.09.2020, and Ms. Ramanathan Bhuvaneshwari bearing Registration No.IBBI/IPA-002/IP-N00306/2017-18/10864 was appointed as Interim Resolution Professional (IRP).
3. Thereafter, the IRP released the public advertisement on 04th February 2021 in Deccan Herald (English) and Prajavani (Kannada) newspapers. IRP received only one claim on 03rd March 2021, from one Financial Creditor i.e. M/s. Deutsche Bank AG for Rs.41,33,372/- being related party of Corporate Debtor. Being related party, this Financial Creditor cannot be considered for constitution of CoC, as per Section 21(1) of the Code. There are dues from/to IT department and accordingly, the IRP had written letter to IT department to submit the claim. IRP also went and met the concerned officer and handed over the order of admission. IT department submitted the claims on 09th March 2021. Accordingly, the claim was verified and the CoC is constituted.
4. Under Sections 18 and 21 of the IBC, the IRP shall constitute a CoC. As per Regulation 17(1) of the IBC, a report certifying constitution of CoC needs to be filed by IRP with Adjudicating Authority. The Committee of Creditors (CoC) consists of IT department only. The details are as below:

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Sl. No.	Creditor Name	Date of admission	Amount claimed Rs.	Amount admitted Rs.	Voting Power %	Secured/Unsecured creditors	Remarks
OPERATIONAL CREDITORS: COMMITTEE OF CREDITORS							
1	IT Department	12.03.2021	49,10,25,727	41,75,00,655	100%	Unsecured	CoC Member

5. **The total list of claims received are as below:**

Sl. No.	Creditor name	Date of admission	Amount claimed Rs.	Amount admitted Rs.	Voting Power %	Secured/Unsecured creditor	Remarks
FINANCIAL CREDITORS							
1	M/s. Deutsche Bank AG	03.03.2021	41,33,372	41,33,372	0	Unsecured	Related Party

Sl. No.	Creditor name	Date of admission	Amount claimed	Amount admitted	Voting Power %	Secured/unsecured creditor	Remarks
OPERATIONAL CREDITORS: COMMITTEE OF CREDITORS							
1	IT Department	12.03.2021	49,10,25,727	41,75,00,655	100%	Unsecured	CoC Member
	Total Claims received		49,51,59,099	42,16,34,027			

6. It is stated that the RP did not receive any other claim from any other Financial Creditor. Accordingly, the Adjudicating Authority was intimated about the constitution of CoC attached as Annexure D. The IRP conducted the 1st meeting of CoC on 18th March 2021 attached as Annexure E. During the meeting, the RP explained the IT department that the Corporate Debtor does not have any asset. The Company does not have any fixed assets. As the Corporate Debtor is in the business of providing services, it does not have any inventory. The only asset as per the books are the Advance tax in the form of TDS of Rs.5,03,25,757/-. There is a disputed/contingent tax liability of Rs.41,75,00,655/-. The Company does not have any borrowings or any other liability as per the books. No charges are created and hence no charge is outstanding.
7. The Representative of IT department present confirmed that there is no refund or any other amount due to the Company and the claim submitted is after

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considering the amount, if any, as per the records of IT department. In this situation of 'No Assets', there is no possibility for Resolution and hence, it is better to dissolve the CD, instead of going through the CIRP or liquidation process.

8. Heard Ms. Ramanathan Bhuvaneshwari, learned Interim Resolution Professional/ Applicant. We have carefully perused the pleadings of the party along with extant provisions of the Code and the Rules made thereunder.

9. Before considering the merits of case, it is necessary to refer relevant provisions and rules, as available under the Code and the Rules made thereunder.

> ***"Section 54 of the Code reads as*** *(1) Where the assets of the Corporate Debtor have been completely liquidated, the liquidator shall make an Application to the Adjudicating Authority for the dissolution of such Corporate Debtor. (2) The Adjudicating Authority shall on Application filed by the liquidator under sub-section (1) order that the Corporate Debtor shall be dissolved from the date of that order and the Corporate Debtor shall be dissolved accordingly. (3) A copy of an order under sub-section (2) shall within seven days from the date of such order, be forwarded to the authority with which the Corporate Debtor is registered".*
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> ***Rule 11 of NCLT Rules, 2016*** *confers inherent powers on NCLT, which reads as "Nothing in these rules shall be deemed to limit or otherwise affect the inherent powers of the Tribunal to make such orders as may be necessary for meeting the ends of justice or to prevent abuse of the process of the Tribunal".*

10. In terms of Section 60 of Code, the Adjudicating Authority shall be having territorial jurisdiction over the place, where the registered office of Corporate Person is located. It is observed from the first CoC minutes that the Company does not have any business neither employees nor any other assets. Further, the CoC representative confirmed that the advance tax of Rs.5 crore of Income Tax appears to be only asset in the books of the Corporate Debtor but the same is not available. The Amount has already been adjusted against the dues to the IT Department and the IT Department has submitted the claim to IRP after adjusting the amount of Rs.5 Crores, paid by the Corporate Debtor. By conjointly reading the above provisions, the ultimate objective of Code is either to resolve the

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issue by way of Resolution Plan or to dissolve the Corporate Debtor, as expeditiously as possible. The above facts and circumstances of the case, justify there would not serve any purpose to keep the Corporate Debtor under CIRP proceedings, and thereafter under Liquidation proceedings, under the provisions of Code. Therefore, the Adjudicating Authority, by exercising its inherent powers conferred under the Act, can pass appropriate order(s) in the interest of speedy justice.

11. The facts as mentioned above justify dissolution of the Company rather than to continue the Corporate Debtor either under CIRP/Liquidation process, under the extant provisions of the Code and Rules made there under. Therefore, it would be just and proper for the Adjudicating Authority to dissolve the Company, as prayed for by the IRP.

12. In the result, by exercising powers conferred on the Adjudicating Authority, under Section 54 of the Code, especially exercising inherent powers conferred under Rule 11 of the NCLT Rules, 2016, the Application bearing I.A. No.114 of 2021 in C.P.(IB)No.202/BB/2020 is disposed of with the following directions:

(i) M/s. Comfund Consulting Limited, the Corporate Applicant, is hereby dissolved with immediate effect;

(ii) The Registry is directed to forward a copy of this order to the Registrar of Companies, Karnataka within a period of two weeks from today;

(iii) The learned IRP is also directed to forward copies to this order to all other statutory authorities connected with the affairs of the Company;

(iv) C.P. (IB)No.202/BB/2020 also stands disposed of.

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(MANOJ KUMAR DUBEY)
MEMBER (TECHNICAL)

— sd —

(AJAY KUMAR VATSAVAYI)
MEMBER (JUDICIAL)

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