

**NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,  
BENGALURU BENCH, BENGALURU, HELD ON 13.05.2020

**THROUGH VIDEO CONFERENCING**

**CAUSE LIST**

PRESENT: 1. Hon'ble Member (J), Shri Rajeswara Rao Vittanala  
2. Hon'ble Member (T), Shri Ashutosh Chandra

CP/CA No.	Purpose	Sec	Name of Petitioner	Petitioner Advocate	Name of Respondent	Respondent Advocate
CP (IB) No. 307/BB/2019	For pronouncement of order on IA No. 136/2020	Sec 7 of I&B Code 2016	M/s Learning Candid India Pvt Ltd	Surendar Devasani, IRP – Applicant, Amnita Jain, Advocate for Singhania & Co	M/s Alfa People IT Services Pvt Ltd	

ADVOCATE FOR PETITIONER/s:

*Surendar Devasani RP*

ADVOCATE FOR RESPONDENT/s:

ORDER

IA No. 136/2020 in C.P(CI) No. 307/2019 is dismissed by separate order

*Jus*  
member (T)

*KJD*  
member (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

I.A.No.136 of 2020 in  
C.P. (IB) No.307/BB/2019  
U/s 60(5)(c) of the IBC, 2016  
R/w Rule 10 of I & B (AAA) Rules, 2016

**IN THE MATTER OF:**

Mr. Surender Devasani  
*Interim Resolution Professional of*  
*M/s. Alfa People IT Services Pvt. Ltd*  
#26/1, 1<sup>st</sup> Floor, Regus Gem,  
IBIS Hotel, Bommanahalli,  
Bangalore – 560 068.

- Applicant/Corporate Debtor

**Order Pronounced on: 21<sup>st</sup> May, 2020**

**Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)  
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

**Parties/Counsels Present:**

For the Applicant/IRP : Mr. Surendar Devasani, IRP.

**ORDER**

***Per: Ashutosh Chandra, Member (Technical)***

1. I.A. No.136 of 2020 in C.P. (IB) No.307/BB/2019 is filed by Mr. Surender Devasani the Interim Resolution Professional of M/s. Alfa People IT Services Private Limited (hereinafter referred to as the 'Applicant/Corporate Debtor') U/s 60(5)(c) Read with Rule 10 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, by inter alia seeking to take the application for revalidation of the order on record and approve the revalidation of the order in IB No. 307/BB/2019 by accepting this application filed under Section 60(5)(c) of IBC 2016, etc.
2. Brief facts of the case, as mentioned in the Application, which are relevant to the issue in question, are as follows:



- (1) It is stated that CP (IB) No.307/BB/2019 was filed by M/s. Learning Candid India Private Limited under Section 7 of the IBC, 2016 read with Rule 4 of the I&B (AAA) Rules, 2016, by inter alia seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of M/s. Alfa People IT Services Ltd. The same was admitted by this Tribunal vide order no. C.P. (IB) No. 307/BB/2019 dated 05.02.2020. Mr. Surender Devasani was appointed as Interim Resolution Professional to conduct the CIRP.
- (2) It is also stated that the Applicant in the present IA, Mr. Surender Devasani bearing Regn. No. IBBI/IPA-001/IP-P00775/2017-18/11348, had given consent to act as Interim Resolution Professional in respect of the C.P. (IB) No. 307/BB/2019 on 26.08.2019 at the request of Ms. Amritha Jain of M/s. Singhania Law Firm.
- (3) It is further stated that on several occasions the IRP had enquired from Ms. Amritha Jain of M/s. Singhania Law Firm about the status of the application filed before this Tribunal. The applicant was informed by the Ms. Amritha Jain that the application has not yet been admitted.
- (4) It is stated that on 08.03.2020 the Applicant had noticed that the said Application against the Corporate Debtor was admitted by this Tribunal on 05.02.2020. On further verification in the Registry of the Tribunal it was noticed that the certified copy of the order was ready for collection on 07.02.2020. The Applicant was not informed about the admission of the application by this Tribunal by Ms. Amritha Jain of M/s. Singhania Law Firm.
- (5) It is further stated that on 08.03.2020 when the matter was taken up with Ms. Amritha Jain he was informed by her that they have informed the Corporate Debtor about the initiation of CIRP against the Corporate Debtor on 05.02.2020 itself, the date on which the hearing took place.
- (6) It is stated that as the IRP was unable to take any steps in the absence of any communication from Ms. Amritha Jain about the admission of the case, the present Application is being submitted with a prayer under



Section 60(5)(c) to revalidate the order dated 05.02.2020 to enable the applicant to comply with the provisions.

3. Heard Mr. Surender Devasani, the Applicant / learned Interim Resolution Professional. We have carefully perused the submissions made in the Application, the extant provisions of the Code and the Rules made there under.
4. This Application has been filed by the IRP appointed in the case of M/s. Learning Candid India Private Limited, u/s 60(5) of the Code, r/w Rule 10 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, seeking revalidation of this Tribunal's order in CP(IB) No. 307/BB/2019 dated 05.02.2020, whereby the Company Petition, was admitted initiating CIRP in r/o M/s. Alfa People IT Services Ltd. Section 60(5) of the Code confers jurisdiction on this Adjudicating Authority to entertain or dispose of any question of priorities or any question of law or facts arising out of or in relation to the insolvency resolution proceedings of the corporate debtor.
5. In the instant case, vide the above order of this Tribunal, Mr. Surender Devasani, the Applicant, was appointed as the Interim Resolution Professional. As per the Applicant, though the order admitting the Company Petition was passed on 05.02.2020, and the certified copy of the order was ready for collection on 07.02.2020, it was due to lack of information/ communication from Ms Amtita Jain, Advocate with M/s Singhania & Co. LLP, that he remained unaware of the passing of such an order, and his appointment as IRP, and this came to his notice only on 08.03.2020.
6. As per section 7(6) of the Code, "*The corporate insolvency process shall commence from the date of admission of the application under sub-section (5).*" Thus the insolvency process in the instant case had commenced on 05.02.2020, i.e. on the date of admission of the Company Petition in CP (IB) No. 307/BB/2019 by this Tribunal and ordering of the CIRP. No exception is provided in the Code in respect of such commencement date, and cannot be interfered with.



7. The reason cited by the Applicant IRP, namely non-communication of the passing of the order by the Law Firm to him is otherwise also clearly unacceptable. The allegations made by the Applicant against Ms Amrita Jain of M/s Singhania & Co. LLP, appear to be baseless and an after-thought, and are also not borne out by the material on record. It is seen from the written communication made by the Applicant Mr. Surendra Devasani in Form 2 under Rule 9(1) of the Insolvency and Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, and filed with the Company Petition, that he had agreed to accept the appointment as an IRP on being proposed by M/s Learning Candid India Pvt. Ltd. This Form does not make a mention of Ms. Amrita Jain, Advocate or the Law Firm M/s Singhania & Co. LLP.
8. The Negligence on the part of the Applicant IRP, or anyone else, in not taking action immediately on the passing of the Order on 05.02.2020, as required by the Code, cannot be regularised by revalidating an already valid order. Having given acceptance to his appointment as IRP, the Applicant had accepted to be an Officer of the Court and should have kept himself informed of the proceedings in this Tribunal. In these circumstances, no case is made out for any intervention by this Adjudicating Authority u/s 60(5) of the Code. On the other hand, we take a serious view of the filing of this frivolous Application, as it is clearly a misuse of the provisions of the Code to extend the CIRP period by seeking revalidation of the Order dated 05.02.2020.
9. In the result, I.A. No.136 of 2020 in C.P. (IB) No.307/BB/2019 is dismissed with the directions that the IRP must complete the process following the timelines laid down in the extant Law and Rules framed by the IBBI, and the date of commencement of the CIRP remains 05.02.2020.



**ASHUTOSH CHANDRA**  
MEMBER, TECHNICAL



**RAJESWARA RAO VITTANALA**  
MEMBER, JUDICIAL