

NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – II
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 09-07-2021 AT 2.30 PM THROUGH VIDEO
CONFERENCING:

PRESENT: SMT. R. SUCHARITHA, MEMBER (JUDICIAL)
SHRI B. ANIL KUMAR, MEMBER (TECHNICAL)

APPLICATION NUMBER : MA/80(CHE)/2021
in
PETITION NUMBER : IBA/578/2019
NAME OF THE PETITIONER : State Bank of India
NAME OF THE RESPONDENTS : Mathur Sabapathy Viswanathan
UNDER SECTION : Sec 27 of IBC, 2016

ORDER

Learned Counsel Mr. Ganesh V. Aranala for the counsel on record for the Applicant is present.

Learned Resolution Professional Mr. M.S. Viswanathan present in person.

This application was filed based on the 12th CoC meeting for replacement of the RP. State Bank of India is the sole CoC member. The CIRP commenced on 24.07.2019.

The Corporate Debtor has been kept as a going concern at the 12th CoC meeting dated 05.02.2021. The sole CoC member has taken a decision to replace the RP on the ground of “**operational need**”.

It is brought to the notice of this Adjudicating Authority that a person suggested as the RP by the sole CoC member appears to be an ex-employee of State Bank of India; the Financial Creditor.

It is also brought to notice of this Adjudicating Authority that the Bankers are keen on bringing their ex-employee as the RP or Liquidator, in most of the cases.

This is an issue to be contemplated by the IBBI. This Adjudicating Authority has a suggestion to the Policy Makers to consider in the CoC meeting, why the Bankers (Financial Creditors) are appointing their ex-employee as the RP or Liquidator.

The Registry is directed to forward a copy of this order to IBBI for their reference and records and further confirmation.

Meanwhile, the Counsel for the Applicant shall also take instructions as to the need for change of the RP at the 12th CoC meeting when the Company is going for liquidation.



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[MA/80(CHE)/2021 in IBA/578/2019]

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As per the records, there is no resolution plan available for consideration. Till date, the Company has been kept as a going concern, as well. However, it appears that the CoC wanted to go for liquidation. At this stage, is there a need or a necessity to change the RP?

Place this also before IBBI for the Academicians and Policy Makers to consider the stricter and better regulations to run the CIR Process.

The Applicant Counsel is directed to satisfy this Adjudicating Authority on the necessity to change the RP at this stage on the next date of hearing.

List the matter on **15.07.2021** for further hearing.

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(ANIL KUMAR B)
MEMBER (TECHNICAL)

sr

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(R. SUCHARITHA)
MEMBER (JUDICIAL)