

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
VC AND PHYSICAL (HYBRID) MODE
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
04-03-2024 AT 10:30 AM**

CP(IB) No. 363/7/HDB/2020

And

IA (IBC) 1176/2022 & IA (IBC) 1486/2023 in CP(IB) No. 363/7/HDB/2020

u/s. 7 of IBC, 2016

IN THE MATTER OF:

India Infrastructure Finance Company Ltd

...Financial Creditor

VS

Ind-Barath Power Infra Ltd

...Corporate Debtor

C O R A M:-

DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)

SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)

ORDER

IA (IBC) 1486/2023

Orders pronounced. In the result, **this application is dismissed. No costs.**

IA (IBC) 1176/2022

Learned Counsel Mr Yogesh Jagia, for applicant present through Video Conference. Learned Counsel Mr Amir Bavani, for respondent No.1 present physically. Matter passed over.

Matter called again. Heard both sides. **For orders on 01.04.2024.**

It is represented by the learned counsel the direction in IA No 26/2023 in IA No 1176/2022 is regard to the payment of costs has been complied with.

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - I, HYDERABAD**

**I.A. No.1486 of 2023
in
CP (IB) No.363/7/HDB/2020**

In the matter of Ind Bharath Power Infra Ltd.

In the matter of :

India Infrastructure Finance Company Ltd.

.. Financial Creditor

Versus

Ind Barath Power Infra Ltd.

.. Corporate Debtor

In the matter between:

Ashish Arjunker Rathi

(IP Registration No.

IBBI/ IPA-001-IPP00568/ 2017-18/ 11010)

Appointed as Liquidator for

Ind Barath Power (Madras) Ltd.

vide order dated 22.04.2019 in

IA No.457 of 2018 in

CP (IB) No.150/9/ HDB/ 2017.

.. Applicant

Versus

Huzefa Fakhri Sitabkhan

(IP Registration

No.IBBI/ IPA- 001/ IP-P00031/ 2017-18/ 101115)

Appointed as Resolution Professional for
Ind-Barath Power Infra Limited (IBPIL)
vide order dated 19.10.2022 in
CP (IB) No.363/7/ HDB/ 2023.

**.. Respondent
Corporate Debtor**

APPLICATION UNDER SECTION 60(5) OF
THE INSOLVENCY & BANKRUPTCY
CODE, 2016 READ WITH RULE 11 OF THE
NCLT RULES, 2016.

Coram:

DR.VENKATA RAMAKRISHNA BADARINATH NANDULA
Hon'ble Member (Judicial)

SHRI CHARAN SINGH
Hon'ble Member (Technical)

Counsels present:

For Applicant : Mr. Bhagavat Krishnan, Advocate.

For respondent: Mr. Dhiraj Mhetre, Ms. Smiti Tewari and Mr.
Shreyas Lele, learned counsels for M/s. Khaitan
Legal Associates.

Date of Order : 4th March 2024

Per : Bench

ORDER

This application is filed by the Liquidator For Ind
Barath Power (Madras) Ltd./ Corporate Debtor for the
following reliefs:

“(a) Direct the Resolution Professional to admit the claim of the applicant to the tune of INR 229,19,77,185/- (INR two hundred twenty-nine crores nineteen lacs seventy-seven thousand one hundred and eighty-five) and INR 10,25,00,000/- (ten crores twenty-five lakhs) arbitrarily rejected by the Resolution Professional.

“(b) Direct the Resolution Professional to include the applicant as part of the CoC as it is not a related party of the Corporate Debtor.”

2. The applicant herein is the Liquidator of one company under CIRP. The respondent herein is the Resolution Professional of another company under CIRP.

3. The applicant is Ashish Arjunker Rathi, who has been appointed as Liquidator of Ind Barath Power (Madras) Limited (IBPML) by this Tribunal vide order dated 22.04.2019 passed in IA No.457 of 2018 in CP (IB) No.150/9/ HDB/ 2017. The respondent herein is Huzefa Fakhri Sitabkhan, who has been appointed as Resolution Professional of Ind-Barath Power Infra Limited (IBPIL) vide order dated 19.10.2022 in CP (IB) No.363/7/ HDB/

2023. A copy of the said order dated 19.10.2022 is at **Annexure A-1** of this application. A copy of public announcement dated 23.10.2022 inviting claim from creditors is at **Annexure A-2** of this IA. Copies of the claim submitted by the applicant herein in Form-C dated 15.12.2022 for an amount of Rs.8,96,67,14,445 and proof of submission of claim are at **Annexure A-3** of this IA.

4. It is submitted by the applicant that the said claim is based on loan availed from the applicant/ IBPML by virtue of Loan Agreement dated 06.09.2016, of a sum of Rs.260,00,00,000/- (Rupees two hundred and sixty crores) on condition that an interest @ 15% per annum was payable on the said loan amount and the said loan is payable on demand. The Corporate Debtor has given a

balance confirmation dated 06.11.2017 confirming an amount of INR 256,69,51,662/- as on 14.08.2017.

5. Apart from the said loan availed from the applicant/ IBPML, the respondent had also availed loan of Rs.2,29,19,77,185/- from UCO Bank in 2014 against the lien marked on Fixed Deposits created by Sokeo Power Private Limited (SOKEO) based on MoU dated 24.03.2014 entered into between SOKEO and IBPML pursuant to supply agreement. The said Fixed Deposit have now been liquidated by UCO Bank and it has adjusted the amounts outstanding against the loan granted to the Corporate Debtor. Consequently, the debt availed by the respondent against the Fixed Deposit is now payable to applicant/ IBPML. Sokeo had transferred an

amount of Rs.10,25,00,000/- directly from their account in UCO Bank.

6. Summary of claim amounts payable by the respondent to the applicant is as under:

| Claim in respect of loan given by the applicant to respondent | | |
|----------------------------------------------------------------------|----------------|---------------|
| Principal | Interest | Total |
| 256,69,51,662/- | 1,99,58,92,827 | 456.28,44,489 |
| Claim in respect of loan given by UCO Bank for SOKEO's FD | | |
| Principal | Interest | Total |
| 239,44,77,185 | 200,93,92,772 | 440,38,69,957 |

7. With regard to the claim submitted by the applicant, the documents submitted to the respondent, clarifications sought and given between the parties, there was **a series of correspondences** between the applicant and the respondent that spans over a year and half. The same is summarized as under:

| e-mail dated/ marked as Annexure | Sender of the e-mail | Reci- pient of e-mail | Remarks |
|-------------------------------------------------|---------------------------------|--------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 22.12.2022 Annex. A-4 | Respon- dent/ RP | Appli- cant/ clai- mant | Resolution Professional stated that the claim is under verification. |
| 02.02.2023 Annex. A-5 | Applicant | Resp- ondent/ RP | Applicant had clarified certain aspects and requested to expedite the claim. |
| 07.02.2023 Annex. A-6 | Respon- dent/ RP | Appli- cant/ clai- mant | RP has stated that he has filed appropriate application u/s 19(2) of the Code seeking directions to the Members of the Board of Directors (powers suspended) for necessary support/ cooperation. The RP has also stated that IBPML is not part of CoC being a related party. |
| 14.03.2023 Annex. A-7 | Applicant/ claimant | Respon- dent/ RP | Applicant informed the RP that application pending against Members of the Board of Directors (powers suspended) has no bearing on admission of applicant's claim. |
| 04.04.2023 Annex. A-8 | Applicant/ claimant | Respon- dent/ RP | Applicant reminded RP about his claim. |
| 06.04.2023 Annex. A-9 | Respon- dent/ RP | Appli- cant/ clai- mant | Respondent/ RP sought certain documents/ clarifications. |
| 19.05.2023 Annex. A- 10 | Applicant/ claimant | Resp- ondent/ RP | The applicant responded to above e-mail. |
| 25.05.2023 Annex. A- 11 | Respon- dent/ RP | Appli- cant/ clai- mant | Respondent stated that the claim is under verification. |

| | | | |
|-------------------------------|---------------------|----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 20.06.2023 Annex. A- 12 | Respon- dent/ RP | Appli- cant/ claim- ant | Respondent/ RP conveyed rejection of claim stating that: <i>“2. Further, towards the claim of Rs.229,19,77,185 and Rs.10,25,00,000/- and interest thereof, kindly note that the said claim is rejected as there is no contract by which it can be assumed that the Corporate Debtor has any liability to repay any amount to Ind Barath Power (Madras) Limited. Thus, the said portion of claim of Ind Barath Power (Madras) Limited is rejected as there is no privity of contract between the Corporate Debtor and Ind Barath Power (Madras) Limited.”</i> |
|-------------------------------|---------------------|----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

8. Grounds advanced by the applicant in support of his claim.

GROUND AGAINST REJECTION

(A) That the respondent/ Resolution Professional has failed to appreciate the background of the claim. IBPML and SOKEO executed MoU dated 24.03.2014 providing that the amount of advance received by SOKEO from IBPML would be utilized for crated of FDs which will be

lien marked for availing loans by IBPML and its group companies. From the said MoU and letters/ transfer requests it is clear that IBPML and SOKEO agreed that SOKEO would deposit the advance money received from TRA account of IBPML in its bank a/c with UCO Bank. Copies of MoU dated 24.03.2014 and letters of instructions / transfer requests are at ANNEXURE A-13 (COLLY.).

(B) That the respondent having availed loan of Rs.2,29,19,77,185/- from UCO Bank against the lien marked on Fixed Deposits created by Sokeo Power Private Limited (SOKEO) based on MoU dated 24.03.2014 entered into between SOKEO and IBPML pursuant to supply agreement and the said FD having been liquidated by UCO Bank and the amounts adjusted towards outstanding against the loan granted to the

Corporate Debtor, the debt availed by the respondent against the Fixed Deposit is now payable to applicant/IBPML. The applicant submits that without any basis the amounts would not have come to the Corporate Debtor. Copies of MoU dated 24.03.2014, UCO Bank letter dated 23.03.2017, Demand Notice and Bank statements are at ANNEXURE A-14 (COLLY.).

(C) Refuting the interpretation made by the Resolution Professional the applicant relied on Phoenix ARAC Pvt Ltd v. Spade Financial Services Ltd & others, (2021) 3 SCC 475 and laid emphasis on the following observations of the Hon'ble Supreme Court:

“ the exclusion under the first proviso to Section 21(2) is related not to the debt itself but to the relationship existing between a related party financial creditor and the corporate debtor. As such, the financial creditor who in praesenti is not a related party, would not be debarred from being a member of the CoC.”

(D) The applicant submits that the applicant had filed IA No.157 of 2019 in CP (IB) No.150/9/ HDB/ 2017 seeking required contribution to the assets of the Corporate Debtor. The respondent/ Resolution Professional has filed reply in the said IA and affirmed that:

“the outstanding liability payable to IBPML is not denied, however answering respondent is not in a position to pay the same as on date but is making all possible efforts to arrive at a settlement to clear the outstanding dues. . . .”

Relevant paras of the said reply is at ANNEXURE A-15.

9. The respondent/ Resolution Professional has filed AFFIDAVIT IN REPLY dated 17.10.2023, wherein he has narrated facts and made submissions on merit as under:

FACTS:

(i) The respondent states that he had intimated the suspended Management of the Corporate Debtor through

e-mail dated 26.10.2022 (copy is at Annexure-A of this Reply) about the CIRP order and sought information/ documents.

(ii) A director (powers suspended) of the Corporate Debtor has challenged the CIRP order vide Company Appeal (AT) (Ins.) No.387 of 2022 before the Hon'ble NCLAT, Chennai, wherein the Hon'ble Appellate Tribunal passed order dated 03.11.2022 (copy is at Annexure-B of this Reply).

(iii) The respondent has addressed several e-mail communications, viz. dated 06.12.2022, 02.12.2022, 01.12.2022, 30.11.2022, etc. (copies at Annexure-C of this Reply) to the suspended Management of the Corporate Debtor to furnish information/ documents. Said e-mails did not elicit any response for the suspended Management of the Corporate Debtor, which compelled

the respondent to file IA No.1552 of 2022 for directions to the to the suspended Management. A copy of the said IA is at Annexure-D of this Reply.

(iv) This Tribunal has allowed IA No.1552 of 2022 vide order dated 31.03.2023 (Annexure-E of this Reply) directing the respondents to the furnish information sought. Thereafter, in an appeal preferred before the Hon'ble NCLAT, Chennai being Company Appeal (AT) (CH) (Ins) No.387 of 2022, the Hon'ble Appellate Tribunal vide order dated 05.04.2023 (Annexure-F of this Reply) directed the CoC not to proceed further in CIRP. However, the suspended Management does not oblige in providing the information / documents sought despite e-mail communications (Annexure-G of this Reply) addressed to them. I was further compelled to file IA (filing) No.3607130/ 02588/ 2023 (cop of IA is at

Annexure-H of this Reply) for directions against the suspended Management. The matter is subjudice.

(v) The respondent/ Resolution Professional has filed IA No.567 of 2023 for extension of CIRP period as the period had expired on 16.04.2023. However, this Tribunal has refused to grant extension in view of pending proceedings before the Hon'ble Appellate Tribunal. Copy of order dated 22.06.2023 passed in the said IA is at Annexure-I of this Reply.

SUBMISSIONS ON MERIT:

(vi) The applicant's claim is based on two transactions, viz. Loan Agreement dated 06.09.2016 and the transaction between IBMPL and UCO Bank. Aggregated claim amounting to Rs.896,67,14,445 has been received vide e-mail dated 15.12.2022 (Annexure-J of this Reply).

The claim arising out of the Loan Agreement dated 06.09.2016 amounting to Rs. 456.28,44,289 is admitted giving detailed reasons. Whereas, the claim arising out of MoU/ Supply Agreement between IBMPL- UCO Bank to the extent of Rs. 440,38,69,791 and MoU is rejected on the ground that there is no privity of contract between the Corporate Debtor and IBMPL.

JUSTIFICATION FOR REJECTION :

(vii) Supply Agreement dated 30.01.2013 was entered into between IBPML and Sokeo Power Private Limited (SOKEO), to which the respondent herein is not a party.

(viii) MoU dated 24.03.2014 was entered into between IBPML and SOKEO Power Private Limited (SPPL), to which the respondent herein is not a party.

(ix) Aggrieved by rejection of claim qua Supply Agreement/ MoU, the applicant has preferred this IA on behalf of IBMPL in the CIRP of the Corporate Debtor. However, the applicant has failed to produce any document in support of his claim that the applicant is liable to repay any monies to IBMPL or SPPL under the Supply Agreement/ MoU. The applicant's claim made on the Loan Agreement dated 06.09.2016 is admitted since it was based on the documents provided to the respondent/ Resolution Professional by the applicant. Nevertheless the claim of the applicant qua Supply Agreement/ MoU is baseless and does not establish any connection with the Corporate Debtor based on the documents produced.

(x) The applicant is not entitled to be part of the Committee of Creditors. IBMPL and the Corporate

Debtor are associate companies and form part of the same group of companies. As such they are related parties under section 5(24)(i) read with proviso to section 21(2) of the Code. Section 5(24)(i) of the Code reads:

“5 (24) “related party”, in relation to a corporate debtor, means-
(i) a body corporate which is a holding, subsidiary or an associate company of the corporate debtor, or a subsidiary of a holding company to which the corporate debtor is a subsidiary.”

10. The applicant has filed Written Submissions dated 08.02.2024, along with Memo dated 08.02.2024 for condonation of delay in filing the Written Submissions. Delay is condoned. The Written Submissions are taken on record.

11. Submissions made by the applicant in the WRITTEN SUBMISSIONS are:

The Resolution Professional has rejected the applicant’s claim on the following grounds:

1.1 The Creditor (with respect to the admitted portion of the claim) is IBPML and therefore, since IBPML is a related party, the Liquidator of IBPML cannot form part of the CoC.

1.2 With respect to the claim relating to Sokeo FDs, the respondent held that there is no contract between IBPML and the Corporate Debtor evidencing a loan transaction, and therefore, the claim of the applicant is liable to be rejected.

(A) THE APPLICANT SOUGHT TO DISPROVE THAT APPLICANT IS NOT A RELATED PARTY AS UNDER:

(i) The applicant submits that the applicant/ IBPML is not a related party to the Corporate Debtor. The respondent/ Resolution Professional had erred in arriving at the conclusion to that effect. In support of the said contention the applicant relied on Phoenix ARC Pvt Ltd v. Spade Financial Services Ltd & others, (2021) 3 SCC

475. The applicant submitted that whether a claimant is a related party or not has to be seen as on the date of CIRP commencement date. As on the date of reckoning, liquidation proceeding had commenced and the applicant herein was in-charge of assets of IBPML in liquidation.

(ii) Respondent failed to consider that once an order of liquidation is passed, neither promoters of the Corporate Debtor nor shareholders in the Corporate Debtor have any role to play. The Liquidator takes control of all the assets u/s 35(1)(b) of the Code and makes efforts to sell the same u/s 53 of the Code. The applicant submits that the Hon'ble Supreme Court in Phoenix ARC Pvt Ltd (supra) has held that a related party cannot be included in the CoC because it will have a negative impact on the resolution process of the Corporate Debtor. However, such a phrase could not be found in the judgement. Rather its equivalent

finding of the Hon'ble Apex Court can be traced in the following phrase of the Hon'ble Supreme Court:

“59. Hence, while understanding the meaning of ‘related party’ in the context of the IBC, it is important to keep in mind that it was defined to ensure that those entities which are related to the Corporate Debtor can be identified clearly, since their presence can often negatively affect the insolvency process.”

(iii) Liquidator has power and duty u/s 35(1)(d) of IBC to protect assets of the Corporate Debtor.

(iv) Respondent had erred in treating the applicant as a related party, not a claimant.

(v) Even if the applicant is in the CoC of the Corporate Debtor, it does not have negative impact on insolvency process. Thus, the respondent/ Resolution Professional ought to have accepted the applicant as a CoC Member.

(vi) Respondent failed to see the promoters of Corporate Debtor having engaged in a fraudulent transaction, which adversely affected promoters of Corporate Debtor.

(B) THE APPLICANT SOUGHT TO DISPROVE THAT RESPONDENT/ RESOLUTION PROFESSIONAL ERRED IN REJECTING THE APPLICANT'S CLAIM AS UNDER:

(i) Respondent erred in finding no contract between IBPML and Corporate Debtor. The arrangement between them is all the more evident because Sokeo did not lodge claim with the respondent.

(ii) IBPML and Sokeo entered into MoU dated 24.03.2014. MoU states that Sokeo would offer FD created by it with UCO Bank as security for loans borrower by IBPML-group.

(iii) Respondent had failed to see that the Corporate Debtor while availing loan from UCO Bank, was aware that the security for the same was from Fixed Deposits of

IBPML. Having taken advantage of the same and utilizing the same for payment of debt to UCO Bank, respondent cannot reject the claim of the applicant.

(iv) FDs of IBPML were used to repay creditor of Corporate Debtor. This is a non-gratuitous act of IBPML. Thus, Corporate Debtor was liable to restore the loss suffered by IBPML.

12. In the light of the contest put forth by both the parties the following point has been framed:

POINT:

Whether there exist sufficient reasons and grounds warranting our interference in the respondent's communication of partly rejecting the claim of applicant and disallowing the applicant to become a member of Committee of Creditors?

13. We have heard Mr. Bhagvat Krishnan, learned counsel for the Applicant and Mr. Dhiraj Mhetre, Ms. Smiti Tewari and Mr. Shreyas Lele, learned counsels for M/s. Khaitan Legal Associates for the respondent. Perused the record and the written submissions and other documents submitted.

POINT:

Whether there exist sufficient reasons and grounds warranting our interference in the respondent's communication of partly rejecting the claim of applicant and disallowing the applicant to become a member of Committee of Creditors?

Submissions:

The applicant submits that this application is filed by the Liquidator of one group company against the Resolution Professional of another group company assailing the

communication dated 20.06.2023 whereby the respondent partly rejected the claim of the applicant and not admitted the applicant as a member of the Committee of Creditors on the ground of the applicant being a related party to the respondent.

The applicant/ IBPML further submits that the respondent had availed loan of Rs.2,29,19,77,185/- from UCO Bank in 2014 against the lien marked on Fixed Deposits created by Sokeo Power Private Limited (SOKEO) based on MoU dated 24.03.2014 entered into between SOKEO and IBPML/ applicant pursuant to supply agreement. The applicant further submits that said Fixed Deposit have now been liquidated by UCO Bank and it has adjusted the amounts outstanding against the loan granted to the Corporate Debtor. Consequently, the debt availed by the respondent against the Fixed Deposit

is now payable to applicant/ IBPML as SOKEO has created this deposit on account of an agreement with applicant . Further, Sokeo had transferred an amount of Rs.10,25,00,000/- directly from their account in UCO Bank to the respondent which is also payable to the applicant. The applicant further submits on the point of related party that once an order of liquidation is passed, the promoters or shareholders have no role to play in the corporate debtor and liquidator takes control of all the assets, therefore applicant and respondent companies cannot be treated as related parties. The counsel for the applicant relied on the ruling of Hon'ble Supreme Court in Phoenix ARC Pvt. Ltd. Vs Spade Financial Services Ltd. & Ors [(2021)3SCC475] to prove his point that applicant and respondent are not related parties. The applicant further contended that applicant filed an IA no

157/ 2019 under section 66 of the IBC for seeking clawback of the amount of Rs 956 crores from respondent, Sokeo and other group Companies which was dismissed by Adjudicating Authority and aggrieved by the same the applicant filed an appeal no 193/ 2021 before Hon'ble NCLAT and the same is pending on the date.

14. The learned counsel for respondents submits that applicant's claim is based on two transactions, viz. Loan Agreement dated 06.09.2016 and the transaction between IBMPL and UCO Bank and thus aggregated claim amounting to Rs.896,67,14,445 has been received vide e-mail dated 15.12.2022. The respondent further submits that claim arising out of the Loan Agreement dated 06.09.2016 amounting to Rs. 456,28,44,289 is admitted giving detailed reasons whereas, the claim arising out of

MoU/ Supply Agreement between IBMPL-UCO Bank to the extent of Rs. 440,38,69,791 and MoU is rejected on the ground that there is no privity of contract between the Corporate Debtor and IBMPL. The counsel further contended that claim on account of this transaction cannot be accepted as supply Agreement dated 30.01.2013 was entered into between IBPML and Sokeo Power Private Limited (SOKEO), to which the respondent herein is not a party. The respondent contended that applicant is not entitled to be part of the Committee of Creditors as applicant and the Corporate Debtor are associate companies and form part of the same group of companies, as such they are related parties under section 5(24)(i) read with proviso to section 21(2) of the Code. Section 5(24)(i) of the Code.

Our findings:

15. At the outset, it is to be stated that in the absence of an agreement for the said transaction, per se, between the applicant and the respondent, the derived or indirect relationship cannot be relied upon to establish a relationship of “creditor” and “debtor” between applicant and respondent and consequently the claim of applicant cannot be admitted. When once it is clear that there is no “creditor” and “debtor” relationship between the applicant and the respondent, the subject claim by the applicant shall fail invariably.

Further, we find that applicant has filed an IA No.157/2019 under section 66 of the IBC for seeking clawback of the amount of Rs 956 crores from respondent, Sokeo and other group Companies which includes the purported claim amount. The said application was dismissed by

Adjudicating Authority and aggrieved by the same the applicant has filed an appeal no 193/ 2021 before Hon'ble NCLAT which is still pending. Since, the matter is pending before Hon'ble NCLAT for adjudication, it is not proper for the applicant to approach this Tribunal for adjudication on this issue. In the above backdrop, we decide that this application on the point of claim is not maintainable in this Tribunal.

16. The contention of the applicant that since ex-management is not in control of corporate debtor after it is put into liquidation, the related party status will not be applicable is unsustainable, as Section 5 (24) does not speak about the control of the Corporate Debtor but talks about 'corporate entity itself' and corporate entity remains in existence even after putting the same into liquidation. Thus, the status of corporate entity does not

merge with liquidator and liquidator is always working on behalf of corporate entity only. We reproduce below the relevant section for more clarity.

Section 5 (24)

“related party”, in relation to a corporate debtor, means- (i) a body corporate which is a holding, subsidiary or an associate company of the corporate debtor, or a subsidiary of a holding company to which the corporate debtor is a subsidiary.”

17. In the above backdrop, the point is decided that there exist no sufficient reasons and grounds which warrant interference in the respondent’s decision of partly rejecting the claim of applicant and also not allowing applicant to become a member of Committee of Creditors.

18. In view of the point as decided above, this application is dismissed with no costs.

SD/-
CHARAN SINGH
MEMBER (TECHNICAL)

SD/-
DR.VENKATA RAMAKRISHNA BADARINATH NANDULA
MEMBER (JUDICIAL)

Karim