

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

I.A.No.600 of 2019 in  
C.P.(IB)No.122/BB/2017  
U/s 33 of the IBC, 2016

**Smt. Ramanathan Bhuvaneshwari**  
*Resolution Professional of*  
*M/s.Bhuvana Infra Projects Pvt. Ltd*  
Flat No.528, K.R. Garden,  
First Floor, 6<sup>th</sup> Block,  
Koramangala,  
Bangalore.

- Applicant/  
Resolution Professional

**Date of Order: 10<sup>th</sup> December, 2019**

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

**Parties/Counsels Present:**

For the Applicant/RP : Smt. Ramanathan Bhuvaneshwari

**ORDER**

**Per:** Rajeswara Rao Vittanala, Member (J)

1. I.A.No.600 of 2019 in C.P.(IB)No.122/BB/2017 is filed by Smt. Ramanathan Bhuvaneshwari (hereinafter referred to as 'Applicant/Resolution Professional') under Section 33 of the IBC, 2016, by inter seeking to order to liquidate the Respondent/Corporate Debtor i.e., M/s.Bhuvana Infra Projects Pvt. Ltd by appointing Liquidator etc
2. Brief facts of the case, as mentioned in the Application, which are relevant to the issue in question, are as follows:

(1) The main Company Petition filed by M/s.New Age Real Properties LLP, U/s 7 of the IBC, 2016, R/w Rule 4 of I&B (AAA) Rules, 2016, was admitted by the Adjudicating Authority, vide order dated 17<sup>th</sup> January, 2018, by initiating CIRP, appointing Shri

  
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Pavan Kankani bearing Registration No.IBBI/IPA-002/IP-N00368/2017-2018/11062) as IRP, moratorium etc. Subsequently, the Adjudicating Authority vide its order dated March 15<sup>th</sup>, 2018, allowed the application to change the Interim Resolution Professional of the Corporate Debtor, and thus appointed Smt. Ramanathan Bhuvaneshwari as the RP (the Applicant herein) in place of Shri Pavan Kankani.

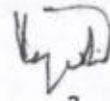
(2) On Company Appeal (AT) (INS) No.574 of 2019 filed by the Director of Corporate Debtor and the group companies, the Hon'ble NCLAT vide its order dated 21<sup>st</sup> August, 2019 has directed the Corporate Debtor and its group Companies to handover all the assets and business records of the Corporate Debtor and report compliance by 26<sup>th</sup> August, 2019, Considering the above direction of Hon'ble NCLAT and other ongoing legal proceedings, the parties, namely, Corporate Debtor and its group companies felt that it is better to settle with the creditors and accordingly the original Petitioner, U/s 7 submitted Form FA to the undersigned on 29<sup>th</sup> August 2019. Based on the Form FA submitted by the Petitioner i.e., M/s.New Age Real Properties LLP, the Resolution Professional namely M/s.Ramanathan Bhuvaneshwari issued notice and conducted as meeting of CoC on 30<sup>th</sup> August 2019 at 10 A.M. The CIRP was to get over on 31<sup>st</sup> August 2019. The notice dated 29<sup>th</sup> August 2019, scheduling the CoC meeting also contained an agenda to liquidate the Corporate Debtor.

(3) It is also stated that proposal from the Promoter and its group companies is to provide post-dated cheque (PDC) to all the creditors as per the agreement with each creditor. However, the CoC rejected the same offer, with a demand that any withdrawal of application can be considered only if the dues are settled fully with immediate payment. For this, the promoter and the group



companies wanted more time to arrange. Considering the above on-going Appeal process with NCLAT and settlement under CIRP, CoC wanted more time and accordingly directed the RP to file application to exclude the time spent during CIRP, towards the proceedings with the Adjudicating Authority and NCLAT, which was not considered earlier for exclusion. The last order for exclusion of time was considering CIRP time lapse till April 26<sup>th</sup> 2019, the date of receipt of order from Adjudicating Authority. As the Respondents have gone on appeal, the further time of 126 days lost till 30<sup>th</sup> August 2019, which may be applied for exclusion. However, as per the amended act 2019, the ongoing CIRP cases are to be completed within 90 days of official notification which was done on 16<sup>th</sup> August 2019 and hence out of 126 days' time lost, they can exclude only 75 days and CIRP shall be completed on November 14<sup>th</sup>, 2019.

- (4) Accordingly, RP filed application I.A.No.439 of 2019 for exclusion of time, which was not approved by the Adjudicating Authority and the application was dismissed, vide order dated 9<sup>th</sup> October, 2019. As the CIRP was over on 31<sup>st</sup> August 2019 and the application for extending CIRP till November 14<sup>th</sup> 2019, was not approved, the CIRP could not be logically concluded as there is no CoC and no Resolution Professional during this intervening period and the CIRP was in Limbo. Accordingly, the RP approached the Hon'ble NCLAT and filed an Appeal. The Hon'ble NCLAT by an order dated 11<sup>th</sup> November 2019 directed the RP to file application with the Adjudicating Authority after taking approval of CoC.
- (5) It is also stated that the Resolution Professional conducted a meeting of CoC on 12<sup>th</sup> November 2019. The CoC approved and passed Resolution for liquidating the Company as there was no possibility of CIRP, all the assets have been diverted to the group Companies which are yet to be handed-over to the Resolution



Professional. The CoC discussed the matter and passed the following Resolution unanimously:


**"RESOLVED THAT** pursuant Section 33(1) and other applicable provision of the IBC Code, 2016 and Rules and Regulation made there under, the CoC be and is hereby approve and liquidation of the Corporate Debtor M/s.Bhuvana Infra Projects Private Limited with immediate effect from 15<sup>th</sup> November 2019."

**"RESOLVED FURTHER THAT** the Resolution Professional be and hereby authorised to submit the application for Liquidation to the Adjudicating Authority with prayer to pass Liquidation order."

**"RESOLVED THAT** the CoC be and hereby authorise and approve appointment of Mr. Vijay Pitamber Lulla, holding Registration No.IBBI/IPA-001/IP-P00323/2017-18/10593 to act as Liquidator of the Corporate Debtor M/s.Bhuvana Infra Projects Pvt. Ltd."

**"RESOLVED FURTHER THAT** the CoC be and hereby authorise and direct the Liquidator Mr.Vijay Pitamber Lulla, to submit the consent form to act as Liquidator to the Adjudicating Authority."

3. Heard Smt. Ramanathan Bhuvaneshwari, the Resolution Professional. We have carefully perused the pleadings of the party and extant provisions of the Code and the Rules made thereunder.
4. As detailed supra, the Resolution Professional and the CoC of the Corporate Debtor have made best efforts to find a suitable Resolution Plan to revive the business of the Corporate Debtor. However, no suitable Resolution Plan is submitted so as to consider the same by



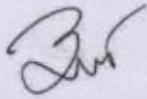
the CoC. Therefore, there is no other alternative for the CoC except to seek to order to liquidate the Corporate Debtor as per the provisions of the Code. The Resolution to initiate liquidation was also approved by the CoC with requisite majority as per law and the instant Application is filed strictly in accordance with law. The CoC has also proposed Mr. Vijay Pitamber Lulla as a Liquidator, for liquidating the Corporate Debtor, who has filed a written consent to act as Liquidator of the Corporate Debtor i.e., M/s.Bhuvana Infra Projects Private Limited dated 07.12.2019, U/s 34 of the IBC, 2016, by inter alia declaring that he is registered with the Board as an Insolvency Professional; he is not subject to any disciplinary proceedings initiated by the Board or the Insolvency Professional Agency etc. Hence, he is provisionally eligible to be appointed as Liquidator. Therefore, it is a fit case to initiate Liquidation in respect of Corporate Debtor.

5. In view of the facts and circumstances of the case, the Adjudicating Authority, by exercising powers conferred under Section 33 of the IBC, 2016, disposed of I.A.No.600 of 2019 in C.P.(IB)No.122/BB/2017 with following directions:

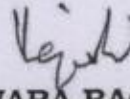
- a) It is hereby ordered that M/s.Bhuvana Infra Projects Private Limited, Corporate Debtor to be liquidated in the manner as laid down in Chapter III of Part II of Code, R/w IBBI (Liquidation process) Regulations, 2016.
- b) Mr. Vijay Pitamber Lulla is hereby appointed as a Liquidator, subject to the terms and conditions to be agreed upon by the parties in the light of extant provisions of the IBBI. He is directed to follow due process of law as per above Chapter and Regulations and to issue public announcement immediately by stating that the Corporate Debtor is in liquidation.



- c) The Registry is directed to communicate this order to the Registrar of Companies, Karnataka for information and necessary action and also to the Liquidator.
- d) The liquidator is directed to strictly adhere to the extant provisions of the Code and the Rules made thereunder framed by the IBBI from time to time and also directed to take expeditious steps to complete the liquidation process in the light of various orders.
- e) Post the case for report of Liquidator on 22.01.2020.



**(ASHUTOSH CHANDRA)**  
**MEMBER, TECHNICAL**



**(RAJESWARA RAO VITTANALA)**  
**MEMBER, JUDICIAL**

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