

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1

IA 532 of 2020 in CP(IB) 57 of 2019

Coram: Hon'ble Mr. MADAN BHALCHANDRA GOSAVI, MEMBER (JUDICIAL)
Hon'ble Mr. VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE
AHMEDABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 03.09.2020

Name of the Company: Arvind Gaudana IRP Ketan Construction Ltd
V/s
Raghuvir Buildcon Pvt Ltd & Anr

Section: 12A of IBC,2016

ORDER

Learned Counsel appeared for the Applicant.

Learned Counsel appeared for the Corporate Debtor.

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Dated this the 3rd day of September, 2020.

**BEFORE THE ADJUDIATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
COURT 1**

**I.A. No. 532 of 2020 in
C.P. (I.B.) No.57/NCLT/AHM/2019**

**Coram: Madan B. Gosavi, Member (Judicial)
Virendra Kumar Gupta, Member (Technical)**

Through:

Mr. Arvind Gaudana, Interim Resolution Professional of:

Ketan Construction Limited
Having address:
Nr. 130 Ft. Ring Road,
Amin Marg Junction,
Amin Marg,
Rajkot-360001

..... Applicant/ IRP

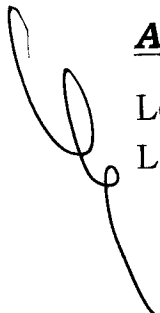
Versus

1. Raghuvir Buildcon Private Ltd.
201, Jalaram House, 2nd Floor,
Nr. Atma Jyoti Ashram, Ellora Park,
Vadodara-390023.
2. Ramesh Amarsinh Barad,
Managing Director of
Ketan Construction Limited (in CIRP)
18, Shashwat Bungalow,
Rajpath Club Road,
Ahmedabad.

..... Respondents/

Appearance:

Learned Senior Counsel Mr. Navin Pahwa for the Applicant/RP.
Learned Counsel Mr. Monaal Davawala for the Respondents




Order delivered on 3rd September, 2020

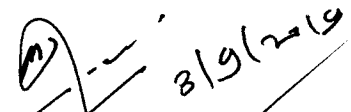
[Per : Virendra Kumar Gupta, Member (Technical)]

1. The order in this case was reserved on 02.09.2020. Through this application, Interim Resolution Professional seeking withdrawal of Corporate Insolvency Resolution Process initiated against the Corporate Debtor vide order of this authority dated 10.08.2020 in CP(IB) 57 of 2019.
2. This application has been filed in terms of provision of Section 12A of Insolvency and Bankruptcy Code, 2016 r.w 30A of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 r.w Rule 8 of NCLT Rules, 2016. COC (Committee of Creditors) has not yet been constituted.
3. Learned Senior Counsel Mr. Navin Pahwa appeared and submitted that the Corporate Debtor was admitted in to Corporate Insolvency Resolution Process through the order of this Authority as indicated above. However, parties thereafter arrived at settlement between them by signing the consent terms on 31.08.2020. Our attention was also drawn to the contents of such consent terms and specifically to para-10 thereof. It was contended that the withdrawal may be permitted by incorporating the condition that Corporate Insolvency Resolution Process would automatically stand revived against the Corporate Debtor and Insolvency Resolution Process shall be entitled to take over the assets

and records of the Corporate Debtor if settlement was not adhered to by the Corporate Debtor. The Counsel on behalf of the Corporate Debtor also agreed.

4. Accordingly, we allow this application by setting aside order of admission of Corporate Debtor in to Corporate Insolvency Resolution Process and release the Corporate Debtor from the rigours of Insolvency and Bankruptcy Code, 2016. We make it clear that such setting aside would stand cancelled and Corporate Insolvency Resolution Process would automatically be revived against the Corporate Debtor in case the consent terms are breached. We also hold that Interim Resolution Professional shall be entitled to take over the assets and records of the Corporate Debtor on revival of Corporate Insolvency Resolution Process against the Corporate Debtor. We also hold that suitable cost may also be imposed on Corporate Debtor in case of revival of Corporate Insolvency Resolution Process.
5. Thus, admission of Corporate Insolvency Resolution Process against the Corporate Debtor is set aside in terms indicated above.
6. Accordingly, IA 532 of 2020 stands allowed and disposed-off.


(Virendra Kumar Gupta)
Adjudicating Authority &
Member (Technical)


(Madan Bhalachandra Gosavi)
Adjudicating Authority &
Member (Judicial)

PC