

**BEFORE THE ADJUDICATING AUTHORITY  
(NATIONAL COMPANY LAW TRIBUNAL)  
AHMEDABAD BENCH  
AHMEDABAD**

**IA 482/2019 in/with  
C.P. (I.B) No. 127/NCLT/AHM/2017**

Coram: **Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL**  
**Hon'ble Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH OF  
THE NATIONAL COMPANY LAW TRIBUNAL ON 14.08.2019**

Name of the Company: Shri Ramchandra D Choudhary IRP for Neesa  
Leisure Ltd.  
V/s.  
Neesa Leisure Ltd.

Section of the Companies Act: Section 21(6A)(b) r.w. 16a IBBI, 2016 r.w Rule 11  
of NCLT Rules, 2016

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
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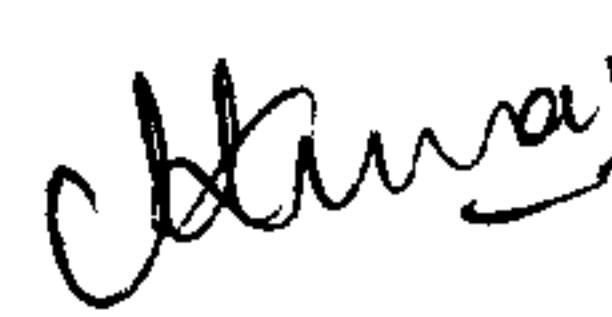
**ORDER**

None appeared on behalf of the parties.

The Order is pronounced in the open court, vide separate sheet.

  
**CHOCKALINGAM THIRUNAVUKKARASU**  
**MEMBER TECHNICAL**

Dated this the 14th day of August, 2019

  
**MANORAMA KUMARI**  
**MEMBER JUDICIAL**

**BEFORE THE ADJUDICATING AUTHORITY  
(NATIONAL COMPANY LAW TRIBUNAL)  
AHMEDABAD BENCH  
AHMEDABAD**

**I.A. No. 482 of 2019  
in  
CP(IB) 127/7/NCLT/AHM of 2017**

**In the matter of:**

Shri Ramachandra D. Choudhary,  
Interim Resolution Professional,  
Neesa Leisure Limited

...Applicant

**Versus**

Neesa Leisure Limited

.....Respondent

**Order delivered on 14<sup>th</sup> August, 2019**

**Coram: Hon'ble Ms. Manorama Kumari, Member (Judicial)  
Hon'ble Mr. Chockalingam Thirunavukkarasu, Member (T)**

**Appearance:** Advocate Mr. Atul Sharma for the Applicant

**ORDER**

**[Per: Ms. Manorama Kumari, Member (Judicial)]**

1. The instant Interlocutory Application is filed under clause (b) of sub-section (6A) of Section 21 of the Code r/w sub-regulation (2) of Regulation 16(A) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for the Corporate Persons) Regulations, 2016 (hereinafter referred to as "CIRP Regulations") by the Applicant, the Interim Resolution Professional, (hereinafter referred to as "IRP/RP") of Neesa Leisure Limited, the Corporate Debtor Company, against which this Tribunal initiated the CIRP vide its order dated 26.04.2019 in C.P. (IB) No. 127/NCLT/AHM/2017, seeking the appointment of Mr. Akhil Thakkar, Insolvency Professional having registration no. IBBI/IPA-001/IP-P01392/2018-2019/12159 as the authorised

*Shoukendra*

*Manu*

representative of the financial creditors of the Corporate Debtor Company in the class of villa owners (hereinafter referred to as "Golf Unit Holders").

2. The Applicant submits that as per the provisions of the Code and regulations framed thereunder, the instant application seeking appointment of the authorised representative for the class of creditors shall be filed within two (2) days of the verification of the claims and as per regulation 4A, the IRP/RP shall ascertain all the classes of creditors on examination of the books of account and other relevant records of the Corporate Debtor Company and thereafter offer the choice of three (3) insolvency professionals and the creditor in class may indicate its choice.

2.1 The Applicant further submits that the present application could not be filed in the prescribed period since the IRP/RP was not having the access of the books of account and other relevant records of the Corporate Debtor Company so as to ascertain the class of creditors; the creditors in the class have submitted their claims in Form C instead of Form CA and furthermore, as per the Circular No. IBBI/CIRP/015/2018 dated 13.07.2018 issued by the IBBI, it was clarified that in an ongoing CIRP, where creditors belonging to a class, are otherwise not represented in the CoC, in such case, the IRP/RP shall facilitate representation through authorised representative, irrespective of the stage of the Corporate Insolvency Resolution Process.

2.2 The Applicant further submits that under Rule 11 of the NCLT Rules, 2016, this Tribunal, in exercise of its inherent powers may allow the present application for meeting the ends of justice. Therefore, in view of the aforesaid facts and considering the interest of all the creditors in the class of Golf Unit Holders, has also prayed for condoning the delay in filing the present application.

3. The Applicant submits that IRP/RP was having access to limited available records and books of account of the Corporate Debtor Company. The Applicant has ascertained that amongst the financial creditors, there was a class of creditors viz. fixed deposit holders of the Corporate Debtor Company. It is further stated that despite making every effort, the Applicant could not ascertain the class of Golf Unit Holders considering the fact that the erstwhile management and the suspended board of the Corporate Debtor Company did

*Shankar Singh*

*Shankar*

not cooperate with the Applicant and did not provide the adequate records and information pertaining to the Corporate Debtor Company consequent upon which, there is a delay in filing the present application.

3.1 The Applicant further states and submits that on ascertaining the class of fixed deposit holders, the applicant, in terms of Section 21 (6A) (b) read with Regulation 16A(1) of the CIRP Regulations and in due compliance of the provisions of the Code and Regulations, had filed an application before this Tribunal on 24.05.2019 seeking the appointment of the authorised representative for the aforementioned class i.e. the fixed deposit holders whereby this Tribunal allowed the application vide its order dated 14.06.2019 in I.A. No. 267 of 2019 in CP(IB) No. 127/NCLT/AHM/2017 and appointed Mr. Bhupendra Singh Narayan Singh Rajput as the authorised representative for the class of fixed deposit holders. A copy of the aforementioned order dated 14.06.2019 is annexed with application as **Annexure C.**

3.2 The Applicant further states and submits that on identifying and ascertaining the financial creditors of the Corporate Debtor in the class of Golf Unit Holders, the Applicant duly communicated the same to all the creditors belonging to this particular class vide email dated 11.06.2019 wherein all the creditors belonging to this particular class, were requested to submit their respective claims in Form CA, being the prescribed form for the submission of claims by the financial creditors in a class and they were also given the choice of three (3) insolvency professionals along with the e-voting instructions. A copy of the aforementioned e-mail dated 11.06.2019 is annexed with the application and marked as **Annexure D.**

4. That as per Regulation 4A of the CIRP Regulations, the Applicant identified three (3) insolvency professionals to be considered for appointment as an authorised representative for the aforementioned class of creditors i.e. for the class of Golf Unit Holders and thereafter, the Applicant offered the choice of three (3) insolvency professionals and the creditor in the class may indicate its choice of an insolvency professional, from amongst the three, to act as its authorised representative.

5. For the sake of convenience and record, the relevant regulations and the Code are reproduced hereunder:

*Shoukath Hussain*

*Shoukath Hussain*

**Regulation 4A - Choice of authorised representative**

(1) On an examination of books of account and other relevant records of the corporate debtor, the interim resolution professional shall ascertain class(s) of creditors, if any.

(2) For representation of creditors in a class ascertained under sub-regulation (1) in the committee, the interim resolution professional shall identify three insolvency professionals who are-

(a) not his relatives or related parties;

(b) eligible to be insolvency professionals under regulation 3; and

(c) willing to act as authorised representative of creditors in the class.

(3) The interim resolution professional shall obtain the consent of each insolvency professional identified under sub-regulation (2) to act as the authorised representative of creditors in the class in Form AB of the Schedule."

**Section 21(6A) (b) Where a financial debt—**

(a) is in the form of securities or deposits and the terms of the financial debt provide for appointment of a trustee or agent to act as authorised representative for all the financial creditors, such trustee or agent shall act on behalf of such financial creditors;

(b) is owed to a class of creditors exceeding the number as may be specified, other than the creditors covered under clause (a) or sub-section (6), the interim resolution professional shall make an application to the Adjudicating Authority along with the list of all financial creditors, containing the name of an insolvency professional, other than the interim resolution professional, to act as their authorised representative who shall be appointed by the Adjudicating Authority prior to the first meeting of the committee of creditors;

**Regulation 16A - Authorised representative**

(1) The interim resolution professional shall select the insolvency professional, who is the choice of the highest number of financial creditors in the class in Form CA received under sub-regulation (1) of regulation 12, to act as the authorised representative of the creditors of the respective class:

Provided that the choice for an insolvency professional to act as authorised representative in Form CA received under sub-regulation (2) of regulation 12 shall not be considered.

(2) The interim resolution professional shall apply to the Adjudicating Authority for appointment of the authorised representatives selected under sub-regulation (1) within two days of the verification of claims received under sub-regulation (1) of regulation 12.

6. In view of the above provisions, the IRP/RP conducted e-voting for the purpose of appointment of the authorised representative which started on 12<sup>th</sup> June, 2019 (2pm) and ended on 13<sup>th</sup> June, 2019 (2pm) in due accordance with the e-voting instructions shared through e-mail dated 11.06.2019. It is further submitted that from ten (10) creditors belonging to the class of Golf Unit Holders, eight (8) voted in favour of Mr.





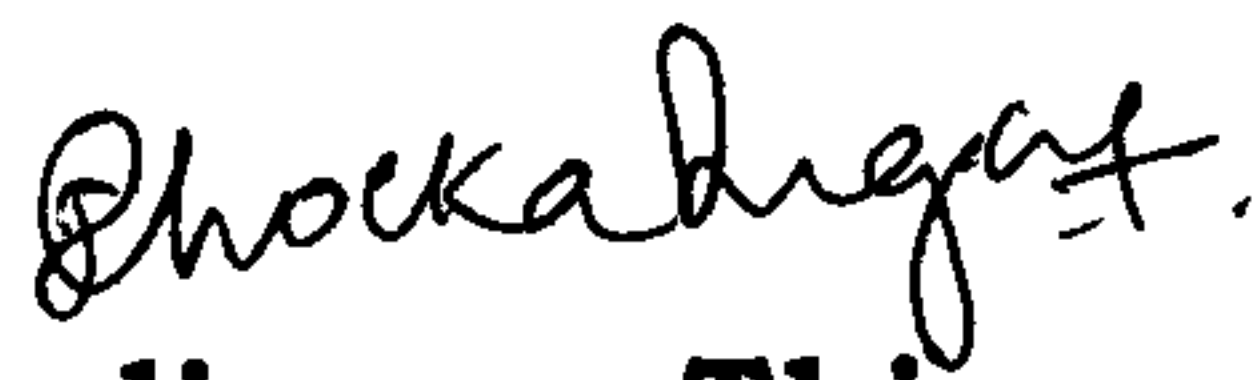
Akhil Thakkar for his appointment as their authorised representative. A copy of all the financial creditors in class along with the voting results is annexed with the application and marked as **Annexure E**.

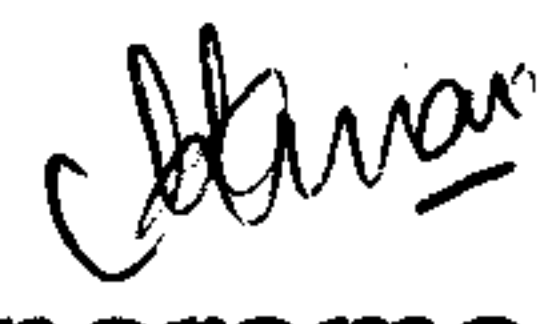
7. It is stated that Applicant received the consent of each of the Insolvency Professional in prescribed form AB as contemplated under sub regulation (3) of regulation 4A of the CIRP Regulations. A copy of the consent obtained in form AB is annexed with the application and marked as **Annexure F**.

8. In view of the above provisions we, the Adjudicating Authority, finds no impediment in the appointment of Mr. Akhil Thakkar, as the authorised representative for Golf Unit Holders, a class of creditors, by condoning the delay, if any, in filing the present application. Accordingly, the instant application is allowed and disposed of.

9. This Application is disposed of accordingly. No order as to costs.

10. Communicate a copy of this order to the Applicant Financial Creditor and to the Respondent Corporate Debtor.

  
**Chockalingam Thirunavukkarasu**  
**Adjudicating Authority**  
**Member (Technical)**

  
**Ms. Manorama Kumari**  
**Adjudicating Authority**  
**Member (Judicial)**

**LCT**