

IA (IBC) 1000/2024
in
CP (IB) No. 339/10/HDB/2021
Date of Order:29.01.2025

IN THE NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH – 1

IA (IBC) 1000/2024

in

CP (IB) No. 339/10/HDB/2021

In the matter of:

Mr. Anjaneyulu Sadhu

...Applicant/ Resolution Professional

In the matter of:

MYIND MEDTECH INNOVATIONS PRIVATE LIMITED

...Corporate Applicant

Coram:-

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

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

Counsel present:

For the Applicant : Mr.Y.Suryanrayana, Counsel

Resolution Professional: Mr.Anjaneyulu.

For ESIC: Mr.L.Venkateshwarlu, Counsel

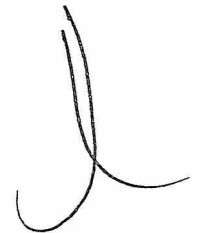
For EPFO: Mr.Vinod Pasala, Counsel

Date of order:29.01.2025

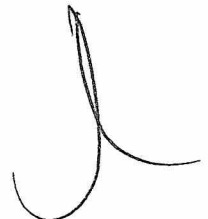


PER BENCH:
ORDER

1. This is an application filed by the Resolution Professional to exclude the time period of 416 days from 13.02.2023 to 04.04.2024. Since COC was not taking any interest in pursuing the CIRP, this Tribunal passed an order dated 10.05.2024 to hear the COC members on this issue. Accordingly Resolution professional and the Registry were directed to issue notice to two COC members i.e ESIC(Employee State Insurance Corporation) and EPFO(Employee Provident Fund Organization).
2. Notices were issued and were duly served on the both COC members. Learned Counsel Shri Sachin Sharma, appeared on behalf of Applicant and Learned Counsel Mr Ramu, appeared on behalf of ESIC/R.2 and Mr.Vinod appeared for EPFO and sought time for counter submissions. However, later on, on 19.07.2024 learned counsel for Respondent no.1 submitted that ESIC is not interested in filing any counter in this matter. Thereafter time was given to Respondent no.2 for filing counter, but respondent no.2 i.e EPFO also do not file any counter.



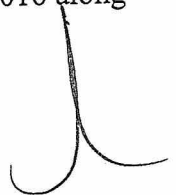
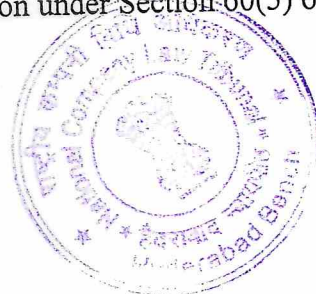
3. Though the matter was posted for orders on 09.09.2024, but order could not be pronounced as there was no clear cut decision from the COC members whether they want to further pursue the CIRP process or not.
4. Since this Application for exclusion of time period was also filed without any resolution of COC, in view of the same, a direction was passed to the Resolution professional to call a meeting of members of COC within 15 days and both the members of the COC were directed to attend the said meeting. On 27.09.2024 Learned RP filed a memo enclosing a letter given by the EPFO stating that they are withdrawing their claims and will not be attending meetings of the COC.
5. Learned Counsel for ESIC also stated that letter to the same effect will also be filed by ESIC. Since both the COC members have filed letter for withdrawal from the COC, Learned RP was directed to file a memo to that effect and matter was posted for orders on 21.10.2024.
6. Orders could not be passed on 21.10.2024 and the resolution professional was directed to explain that after accepting of these memo's of withdrawal from COC filed by both the COC members



what is further course of action open for the resolution professional in the law.

7. Accordingly, RP filed memo dated 18.11.2024 and submitted as under.
- (i) Both the members of the COC i.e ESIC and EPFO have filed letters communicating their decision to withdraw their claims and quit from the COC.
- (ii) Other than these two organizations, there is no other operational creditor who have filed their claims against the corporate debtor. Even the operational creditor who has initiated this CIRP has not filed any claim before the RP.
8. Learned RP further submitted that in similar matter where the financial creditors and operational creditors have withdrawn their claims during CIRP, the Hon'ble NCLT, Ahemadabad Bench, in the matter of Manish Kumar Bhagat (IRP), in M/s. Sumiran Foods Private Limited vs. Pankaj Events & Celebrations Private Limited 1.A no. 338 of 2023 in CP (IB) No. 838 of 2019, passed the following order:

"In the circumstances, when the financial and operational creditors have withdrawn their claims, neither the operational creditor nor the financial creditors, nor the corporate debtor are responding/interested in the conducting CIRP and there being no realizable assets with the corporate debtor, we deem it appropriate to terminate the CIRP of the Corporate Debtor. In view of the above, by exercising our jurisdiction under Section 60(5) of IBC, 2016 along



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with inherent power under Rule 11 of the NCLT Rules, 2016, we hereby terminate the CIRP of the Corporate Debtor with immediate effect and release the Corporate Debtor from the rigors of the CIRP and also discharge the IRP Mr. Manish Kumar Bhagat from his duties of IRP."

9. In view of the above facts, Learned RP prayed the Hon'ble Tribunal to terminate the CIRP of the corporate debtor and to discharge the RP from his duties.

10. Learned RP further filed a memo dated 16.12.2024 explaining that there are only two assets that is TDS receivables of Rs.32,931 and other receivables of Rs.70,000/- and chances of recovery from them is also not there. RP also submitted the details of the CIRP cost and amount received so far from the members of the suspended Board on different dates.

The details are as below:

S.no	Name of the Expense	Amount	Amount received
1	Advertisement Form A	8190	8190
2	IRP/RP Fee	3,00,000	1,01,810
3	Legal Cost	2,00,000	50,000
	Total Expenses	5,08,190	1,60,000



11. Thus, the Applicant/RP again requested this Tribunal to consider dissolving of the Company and to relieve the RP from his duties as there are no chances of recovery from the receivables of the corporate debtor. RP also filed a Judgement of Hon'ble NCIT Kolkata in IA (IB) (Liq) No.32/KB/2024 in Company Petition (IB) No.236/KB/2023 dated 8 November 2024 on the same facts which are as below:

- a. The CoC, which is constituted by only a single member being an operational creditor, is not willing and interested to continue with the CIRP of the corporate debtor; and also is not intending to get back their own money admitted by the RP.
- b. The total assets of the corporate debtor as identified by the RP were meagre to bear the costs if the Company is taken to Liquidation.
- c. NCLT, Kolkata, invoked their inherent powers under Rule 11 of the NCLT Rules 2016, to meet the ends of justice or to prevent abuse of the process, and ordered for dissolution of the corporate debtor, directing the RP to liquidate the fund available with the bank account of the corporate debtor by allocating the same to the IT Department in respect of their outstanding demand.

12. In the above back drop and keeping in view that continuing of CIRP process will create further CIRP expenses which are not recoverable from the assets of the corporate debtor, we deem it appropriate to terminate CIRP of the corporate debtor.

13. Therefore, under these circumstances, when the COC members have withdrawn their claims and they are not interested in conducting CIRP

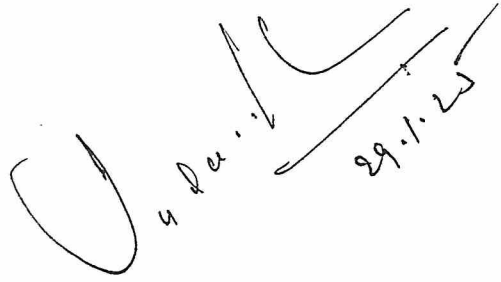


process and there being no realization of assets with the corporate debtor, this Tribunal by exercising its Jurisdiction under Section 60(5) of IBC, 2016 along with inherent powers of Rule 11 of NCLT Rules, 2016, decide to terminate CIRP with immediate effect and release the Corporate debtor from the CIRP process and also discharge the RP from his duties as RP.

14. Both the members of COC are directed to pay the remaining CIRP expenses and RP fees of Rs.3,48,190/- in proportion to their percentage share in COC, within a period of 30 days, in default this order can be executed.

15. Accordingly, this Application and the CP (IB) No 339/10/2021 is disposed of.


29-01-2025
Charan Singh
Member (Technical)


29.1.25
Dr. Venkata Ramakrishna Badarinath Nandula
Member (Judicial)

Pavani

प्रमाणित प्रति
CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER... cp(ib) no: 339/10/HDB/2021
निर्णय का तारीख
DATE OF JUDGEMENT... 29.1.25
प्रति तैयार किया गया तारीख
COPY MADE READY ON... 31.2.25

