



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI COURT-III**

**ITEM No. 07**

IA-2304/2022

In

IB-292(ND)/2021

**IN THE MATTER OF:**

**M/s. BALAJI DUROBUILD PRIVATE LIMITED .....Operational Creditor**

**VERSUS**

**M/s. SANDWOODS INFRATECH PROJECTS PRIVATE LIMITED**

**..... Corporate Debtor**

**AND IN THE MATTER OF:**

**PUNJAB NATIONAL BANK**

**..... Applicant**

**VERSUS**

**M/s. SANDWOODS INFRATECH PROJECTS PRIVATE LIMITED & Ors.**

**..... Respondents**

**Order under Section 60(5) of the IBC, 2016.**

**Order delivered on 12.07.2023**

**CORAM:**

**SHRI BACHU VENKAT BALARAM DAS  
HON'BLE MEMBER (JUDICIAL)**

**SHRI ATUL CHATURVEDI  
HON'BLE MEMBER (TECHNICAL)**

**PRESENT:**

For the Applicant :

For the Respondent :

**ORDER**

Order pronounced in open court vide separate sheets.

**IA-2304/2022** is hereby **dismissed** and **disposed of**.

-Sd-

**(ATUL CHATURVEDI)  
MEMBER (TECHNICAL)**

-Sd-

**(BACHU VENKAT BALARAM DAS)  
MEMBER (JUDICIAL)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI COURT-III**

IA-2304/2022

In

IB-292(ND)/2021

Order under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016.

**IN THE MATTER OF:**

**M/s. BALAJI DUROBUILD PRIVATE LIMITED ..... Operational Creditor  
VERSUS**

**M/s. SANDWOODS INFRATECH PROJECTS PRIVATE LIMITED  
..... Corporate Debtor**

**AND IN THE MATTER OF:**

**PUNJAB NATIONAL BANK ..... Applicant  
VERSUS**

**M/s. SANDWOODS INFRATECH PROJECTS PRIVATE LIMITED & Ors.  
..... Respondents**

**Order delivered on 12.07.2023**

**CORAM:**

**SHRI BACHU VENKAT BALARAM DAS  
HON'BLE MEMBER (JUDICIAL)**

**SHRI ATUL CHATURVEDI  
HON'BLE MEMBER (TECHNICAL)**

**PRESENT:**

For the Applicant : S.S. Lingwal, Adv. for PNB in IA-2304/2022  
For the Respondent : Mr. Abhishek Anand, Ms. Nipun Gautam, Mr.  
Rohil Pandit and Mr. Akhand Pratap Singh Gaur,  
Adv. for Respondents in IA-5535/2021

**ORDER**

**PER: BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)**

1. This application has been filed by Punjab National Bank, which is one of the Financial Creditors in the Corporate Insolvency Resolution Process initiated against the "M/s. Sandwood Infratech Projects Private Limited".

**Punjab National Bank vs. M/s. Sandwoods Infratech Projects Private Limited & Ors.**  
**IA-2304/2022 In (IB) - 292(ND)/2021**  
**Date of Order: 12.07.2023**



### **Brief Facts of the Case:-**

2. An application under Section 9 of the Insolvency and Bankruptcy Code, 2016 was filed by “M/s. Balaji Durobuild Private Limited”, the Operational Creditor/Applicant, seeking initiation of CIRP against “ M/s. Sandwood Infratech Projects Private Limited”, Corporate Debtor/Respondent. This Tribunal vide order dated 25.10.2021 admitted the petition and initiated CIRP and also appointed one Mr. Ravindra Kumar Goel as the Interim Resolution Professional. The IRP constituted the CoC and held CoC Meetings on various dates.
3. The Resolution Professional invited Expression of Interest (EoI) vide publication dated 07.01.2022 and the last date for receiving plans was 27.01.2022. The Resolution Professional received 26 EoIs out of which only 5 submitted the relevant documents. The plan submitted by one Sri D. Konda was found eligible by the Resolution Professional and was placed before the CoC in the 5<sup>th</sup> CoC Meeting. A copy of the said plan was also furnished to all the CoC Members for examination. The Resolution Professional sent an intimation vide Email dated 21.04.2022 to the Applicant Bank stating therein that the Resolution Applicant has modified its plan and it requires fresh consideration. The Applicant Bank requested the Resolution Professional seeking time for analyzing the modification. However, the Applicant received a notice and agenda through Email dated 29.04.2022 for attending the 6<sup>th</sup> CoC Meeting to be held on 04.05.2022 wherein the agenda in Item No. 2 was:  
*“.....to discuss and approve the Resolution plan presented before CoC by Resolution Professional.”*
4. The Applicant Bank sent emails dated 02.05.2022 and 04.05.2022 requesting the Resolution Professional to furnish certain information and documents including a copy of the transaction audit report, latest validation report, additional details of flats, financials of the Resolution Applicant and sources of funds, etc.
5. The Applicant in the said 6<sup>th</sup> CoC Meeting requested the Resolution Professional for 15 days more time to analyze the Resolution Plan. However, the Resolution Professional as well as the Authorized



Representative of the Home Buyers objected to grant of time to the applicant and the Resolution Professional vide Email dated 09.05.2022 sent a notice for e-voting on the agenda for the 6<sup>th</sup> CoC Meeting which included the agenda for approval/disapproval of the Resolution Plan. As per the notice, the e-voting lines were supposed to be open from 08.05.2022 to 11.05.2022 till 04.00 pm. The Applicant again requested the Resolution Professional vide Email dated 10.05.2022 to defer the e-voting by 15 days and also to furnish the necessary documents. Vide Email dated 11.05.2022, the Resolution Professional informed the Applicant that the voting has been concluded at 03.45 pm instead of 04.00 pm.

6. The Applicant has therefore filed the present application seeking to recall the results of the e-voting on the Resolution Plan which was conducted on 11.05.2022 and to direct the Resolution Professional to conduct the CoC Meeting afresh.
7. The Respondent-Resolution Professional filed a reply to the present application denying the allegations made by the Applicant Bank. The Respondent has broadly submitted that the Authorized Representative of the Home Buyers who constituted the majority (71.75 %) of the CoC Members strongly objected to deferring the voting on the plan for the reason that the Home Buyers have suffered immensely due to the long delay in completion of the projects and their hard earned money invested by them is struck. It is also submitted that the plan submitted for e-voting was final and there was no modification done by the Resolution Applicant. It is submitted that the Resolution Professional has followed the instructions of the majority stake holders i.e. the Home Buyers holding 71.75% voting share and allowed the voting on the Resolution Plan. The Applicant Bank holding a minority share i.e. 17.80 % in CoC is trying to derail the CIRP and trying to put undue pressure on the Resolution Professional by adopting unfair means.
8. We have heard the Ld. Counsels appearing for both parties and also perused the record.



9. The sole controversy in this matter is only with regard to the fact that the Applicant Bank was not afforded time to examine the plan and also that the Applicant was not provided with the relevant documents sought for by it. The Resolution Professional in its reply has specifically denied the allegations and has submitted that there was no modification in the Resolution Plan and further, he has followed instructions of the Home Buyers who have majority voting rights and as per the provisions of the IBC, 2016, he has proceeded to conduct the 6<sup>th</sup> CoC meeting and held the e-voting in which the Resolution Plan has been approved by the majority CoC Members.
10. Therefore, the Resolution Professional has not committed any irregularity or illegality in conducting the CoC Meeting for approval of the Resolution Plan.
11. We find force in the arguments advanced by the Ld. Counsel appearing for the Resolution Professional and we are of the considered view that the RP has not committed any illegality in conducting the e-voting keeping in view the fact that the proceedings under the IBC, 2016 are time bound and the Home-Buyers have suffered immensely.
12. In view of the above facts and circumstances and the foregoing discussion, we, therefore, see no merit in the present application.

**IA-2304/2022 is hereby dismissed.**

No order as to costs.

-Sd-

**(ATUL CHATURVEDI)  
MEMBER (TECHNICAL)**

-Sd-

**(BACHU VENKAT BALARAM DAS)  
MEMBER (JUDICIAL)**