NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI
(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No. 510/2025

In the matter of:

RAVI SANKAR DEVARAKONDA
Ex Interim Resolution
Professional: Avasarala
Technologies Ltd 41/1, 8th Main, 11th Cross,
Jayanagar 2nd Block,
Bangalore – 560 011 **… APPELLANT**

V

AVASARALA TECHNOLOGIES LTD
60, K Choodahalli Village,
Somanahalli Gate, Kanakapura Main Road
Bangalore – 560 082 **…RESPONDENT NO. 1**

THYSSENKRUP AUTOMATION ENGINEERING GMBH,
Richard Taylor Strabe 89
28777, Bermen, Germany **…RESPONDENT NO. 2**

THE KARUR VYSYA BANK LTD.
Basvangudi Branch,
No. 54, Nagasandra Circle,
Basavngudi, Bangalore 560 004 **…RESPONDENT NO. 3**

Present :

For Appellant : Mr. PH. Arvindh Pandian, Senior Advocate
For Mr. Avinash Krishnan Ravi, Advocate

JUDGMENT
(Hybrid Mode)

[Per: Justice Sharad Kumar Sharma, Member (Judicial)]

The Appellant is an ex-Interim Resolution Professional in relation to the CIRP process, which was initiated as against M/s. Avasarala Technologies Limited (the Corporate Debtor). The cause agitated by the Appellant in the instant company appeal is against the impugned order dated 23.06.2025, as it was passed by the Ld. NCLT Bengaluru Bench in IA(IBC)/427/ 2025 as rendered in CP (IB)/110/BB/2021. The consequential effect of impugned order is that, Ld. Adjudicating Authority allowed the application filed under Section 12A of the I & B Code, 2016, seeking for withdrawal of the CIRP process of the Corporate Debtor, while declining to fix or direct the payment of any fee to the Appellant, who was the Resolution Professional of the Corporate Debtor, for the period during which the CIRP proceedings were directed to be stayed by the Hon'ble High Court of Karnataka, that is, for the period from 14.08.2023 to 18.03.2025.

2. Facts for consideration are, that M/s. Avasarala Technologies Limited, herein the Corporate Debtor was admitted into CIRP proceedings pursuant to an order that, was passed on 04.07.2023, in a proceeding which was drawn against it under Section 9 of the I & B Code, 2016, by M/s. Thyssenkrup Automation Engineering GmbH, Germany, the Operational Creditor.

3. Brief facts are that, as a consequence of the initiation of the CIRP process, the Appellant was appointed as IRP and that he took over the CIRP-related responsibilities of the Corporate Debtor, including taking charge of the operations of the Corporate Debtor, issuing public announcements, constituting the CoC and convening of the first CoC meeting, as was scheduled for 17.08.2023. However, before the first CoC meeting could be conducted, a writ petition being Writ Petition No. 16691/2023, was preferred before the Hon'ble High Court of Karnataka by the Corporate Debtor, submitting thereof that, owing to the provisions contained under Section 10A of the I & B Code, 2016, the proceedings for initiation of CIRP should not have been admitted.

4. The Hon'ble High Court of Karnataka, after considering the rival contentions and taking note of the fact that the date of demand notice, which in the instance case happened to be 19.11.2020, observed that, prima facie the default appears to have occurred after 25.03.2020, which falls within the 10A period, and therefore initiation of CIRP in the instant case have been appears to be in violation of Section 10 A of the I & B Code, 2016, and based on such, proceeded to pass the following orders, "*Hence, there shall be a stay of further proceedings*".

5. It is this observation that was made in the order of 14.08.2023, passed by the Hon'ble High Court, which requires an interpretation owing to the pleadings

raised by the Appellant, for the purposes of, claiming fees for the period during which the said interim order operated, i.e., between 14.08.2023 to 18.03.2025.

6. The Appellant contended that, though there was stay of all further proceedings in the CIRP, in compliance of his duties, under the I & B Code, 2016, he continued to discharge the essential functions to keep the Corporate Debtor as a going concern, which included the activities, like discharge of essential functions, supervision, operations, authorizing payments, coordinating with the creditors and statutory bodies, assisting with financial compliances and filing progress reports with the Ld. Adjudicating Authority.

7. But the wider issue would still be whether, at the ground level, whether after the stay order of 14.08.2023, by the Hon'ble High Court of Karnataka, such type of activities undertaken at the behest of the Interim Resolution Professional was at all permissible to be continued owing to the implications of the stay of the proceedings by the Hon’ble High Court of Karnataka, by an order of 14.08.2023. The answer would be ‘no’, the reason being that, when the proceedings or any step thereto in furtherance of initiation of the CIRP has been thereafter kept in abeyance and when the CoC meeting, which was in fact scheduled to be held on 17.08.2023, could not be proceeded with owing to the interim order of Hon'ble High Court dated 14.08.2023, other functions as alleged to have been performed by the Interim Resolution Professional, the Appellant herein couldn't be said to have been performed at all, due to the restrictions imposed by the interim order

passed by the Hon’ble High Court of Karnataka, because such other acts as alleged to have been carried thereafter by IRP would be an act under contempt of the order of Hon'ble High Court.

8. Be that as it may, the interim order as granted on 14.08.2023, admittedly continued to operate, till the writ petition was withdrawn, by filing the memo, dated 18.03.2025 and the CIRP process is said to have resumed only after 18.03.2025. Meaning thereby, in between the period from 14.08.2023 and 18.03.2025, no functions could have been at all discharged by the Appellant because, according to his own case, he had issued public announcement and was about to convene the 1st CoC, which was scheduled to be held on 17.08.2023, which was thwarted due to the grant of the interim order of 14.08.2023, by the Hon'ble High Court of Karnataka.

9. The Operational Creditor is said to have submitted "Form FA" for withdrawing of the CIRP process, under Section 12A of the I & B Code, 2016, which was approved unanimously by all the members of the CoC, in its 3rd meeting held on 12.05.2025. In the same meeting, the CoC, had also approved for reimbursement of the CIRP expenses of Rs. 2,30,000/- and the fees of the Interim Resolution Professional fee to the tune of Rs. 6,00,000/- for the period of CIRP excluding the period of 582 days covered by the stay order and declined to pay any fee to the Resolution Professional for the said period of stay.

10. It is contended by the Appellant that, consequent to the decision of CoC in its 3rd meeting, he had filed IA (IBC)427/2025 seeking fixation of his fee for the period of stay from 14.08.2023 to 18.03.2025, and for the approval of "Form FA" allowing the withdrawal of the CIRP. The Ld. NCLT considered the aforesaid IA and passed the impugned order dated 23.06.2025 rejecting the prayer of the Appellant for fixation of the fee for the aforesaid period from 14.08.2023 to 18.03.2025, while allowing the prayer of withdrawal of the application CP (IB) No. 110/BB/2021 filed by Respondent No. 2 (that is, withdrawal of CIRP).

11. The reliefs sought for by the Appellant in the IA, inter alia, were for fixation of the fee for the Interim Resolution Professional for the period of stay granted by Hon'ble High Court, for seeking a direction for M/s. Thyssenkrup Automation Engineering GmbH, Germany, to provide bank guarantee for the same. The reliefs sought in the application are extracted hereunder: -

> a. *Fix the Fee of Interim Resolution Professional for the period of Stay by Honourable High Court form 14th August, 2023 till 18th March, 2025 for a period 19 months and direct M/s Thyssenkrupp Automation Engineering GmbH, Germany to provide Bank Guarantee for the following:*
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> > a. *CIRP expenses approved by CoC - Rs. 2,30,000/-*
> > b. *IRP Fee approved by CoC - Rs. 6,00,000/- plus applicable taxes, if any*
> > c. *IRP Fee to be approved by the Honourable Adjudicating Authority in this Application*

b. *Approve the application filed under Section 12A for withdrawal of C.P. (IB) No. 110/BB/2021, since default amount of EURO 3,85,498 was settled for EURO 3,00,000*
c. *Terminate the CIRP process in respect of the Corporate Debtor*
d. *Such other orders as this Hon'ble Tribunal may deem fit in the facts and circumstances of the case, in the interest of justice and equity.*

12. The Ld. Tribunal had considered the aspect, as to what implications would the stay order have pertaining to the fee and expenses, which has been claimed by the Appellant and as to whether, the stay of the proceedings by the Hon'ble High Court of Karnataka by its order of 14.08.2023, would amount to a stay of the CIRP process. The Appellant, before the Ld. Tribunal had admitted the fact that the CIRP did commence on 04.07.2023 when he was appointed as an Interim Resolution Professional pursuant to the application preferred by the promoters, and that the proceedings of the CIRP were kept in abeyance. Hence, he submitted that the stay of the proceedings by the Hon'ble High Court will not amount to be the stay of the process of CIRP.

13. Besides that, he also submitted that, the fixation of the fee, that is payable to him, may not be less than the threshold fee as it has been provided under Regulation 34B of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which mandates the process of fixation of the Interim Resolution Professional fee.

14. The Ld. Tribunal took into consideration his fact that, CoC in its 3rd meeting was held on 12.05.2025, had approved the CIRP expenses of 2.3 lakhs and IRP fee of Rs. 6 lakhs for the period of CIRP excluding the duration of stay and had requested the IRP approach Ld. NCLT for fixation of the fee for the 19-month period during, which there operated the interim order, and also that, the CoC also referred to certain observations, made by the Hon'ble High Court of Karnataka, with regards to the maintainability of the CIRP process in the said interim order.

15. Ld. Tribunal also took note of the contention of the Appellant that since the CIRP process was not set aside by the Hon'ble High Court of Karnataka, and was merely stayed and was later withdrawn under Section 12A of the I & B Code, 2016, CIRP during the period of stay was very much in existence and therefore he had to perform his duties as an Interim Resolution Professional for the period where there operated an interim order, and hence, he would be entitled for the remittance of the fee for the aforesaid period.

16. Ld. Tribunal, also took note of the pleading of the Appellant, in support of his claim for payment of fees for 19 months during which the interim stay operated, which included filing of IAs being IA No. 569/2023 & IA No. 577/2023 pertaining to constitution of CoC and filing of IA No. 744/2023 for seeking directions on the issue of handing over the operations of Corporate Debtor to erstwhile management, which remained undecided, the order of IBBI which

cautioned against handing over control to ex-management without order from Ld. Tribunal, his interaction with customs department on behalf of Corporate Debtor and assistance in finalising the accounts of Corporate Debtor, and action taken in speedy processing of Form FA and in filing the required IA before Ld. Tribunal and also filing of the periodic progress reports with respect to the CIRP process.

17. Having noted the pleadings of the Appellant, Ld. NCLT, while commending the action taken by IRP/Appellant during the CIRP period, observed in the impugned order, that whatsoever the expenditure that, was incurred towards the CIRP and the fees for the entire CIRP period excluding the period under stay has been already paid. Ld. Tribunal further observed that the distinction, which was being attempted to be drawn by the Appellant between the terms "stay of proceedings" and "stay of CIRP", was absolutely an irrational interpretation because a stay of proceeding will amount to be the stay of the CIRP process, which was a subject matter of consideration before the Hon'ble High Court Karnataka.

18. And thus, it was rightly observed by the Ld. Tribunal, that as a matter of fact, there is no practical or rational distinction between the two terms of "stay of proceedings" and "stay of the CIRP", because the ultimate conclusion of either of the two expressions, for which the distinction was attempted to be drawn by the Appellant, would be the same, and therefore, the period from 14.08.2023 till 18.03.2025 would be an exclusion period, where no work relating to CIRP could

not have possibly been carried out by the IRP, Ld. Tribunal further observed that had the CIRP proceeded further, consequent to vacation of stay, that stood imposed by the Hon'ble High Court's order of 14.08.2023, the IRP would have applied for exclusion of such period from CIRP timelines and that if the Appellant in the capacity of being an IRP on his volition has been filing applications including the progress reports and operating bank accounts of the CD, it is only to project that he is functioning during the stay period, which otherwise was not at all warranted.

19. The Ld. Tribunal has also recorded a finding that, there was a doubt created with regards to the bona fide functioning of the Appellant, as an Interim Resolution Professional, because though he had filed multiple interlocutory applications in the CIRP process, the proceedings of which was already stayed by the Hon’ble High Court, there is nothing on record to show that the Appellant made any efforts to ensure an speedy disposal of the aforesaid interlocutory applications filed by him before the Ld. Adjudicating Authority in terms of obtaining the direction which was respectively sought in those applications. Mere filing of an interlocutory applications, for irrelevant reliefs during the period of stay, and not effectively pursuing the same for getting the intended relief as sought will not amount to that the CIRP proceedings still continued and the IRP continued to function despite of the stay order passed by the Hon'ble High Court where the process was directed to be kept in abeyance.

20. As the Appellant couldn't have exercised any control over the business activities and the functioning, administration, or any other related activities of the Corporate Debtor. The factual situation, that would emerge would be that, whatsoever the activities, which were being performed by the Interim Resolution Professional was on his own volition and it will be of no relevance for the purposes to justify the payment of the fee for the period when there operated a stay order as no effective activities in relation to the CIRP process was carried or could have been carried also.

21. Besides that, since the main company petition have been proceeded to be decided on the basis of an application of withdrawal of the company petition, in fact it is established that there was no effective discharge of official duties as an Interim Resolution Professional during the period of stay. Hence, the finding recorded by the Ld. Tribunal declining to fix the fee to the Appellant for the aforesaid period during which their operated stay of proceedings by Hon'ble High Court was absolutely justified. Claim to payment of a fee by a professional will always depend upon the principles of quid pro quo, meaning that entitlement of a fee would be only in lieu of the services discharged by the Interim Resolution Professional in his official capacity. There was nothing on record, which was brought by the Appellant to show that he had effectively discharged any of the functions, which could be correlated with the principles of quid pro quo, to fall

to be an act carried in furtherance of CIRP process, during the period of interim stay.

22. Hence, denial to fix the fee for the aforesaid period, of 19 months being the period of interim stay, which was subject matter of IA (IBC) 427/2025, by the impugned order dated 23.06.2025 cannot be faulted in any manner whatsoever.

Hence, the 'appeal' lacks 'merit' and the same is accordingly 'dismissed'.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

24/10/2025
SN/MS/AK