

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-II

IA No.575/MB-II/2020

in

CP (IB) 2979/MB-II/2018

Under section 22(2) & 22(3)(b) of the
Insolvency & Bankruptcy Code, 2016

Axis Bank Limited

*(Acting on behalf of the Committee of
Creditors of Tribhovandas Bhimji Zaveri
& Sons Retail Private Limited)*

...Applicant

In the matter of

Bhavi Jewellers

...Operational Creditor
Versus

Tribhovandas Bhimji Zaveri & Sons
Retail Private Limited

[CIN: U74999MH2015PTC263038]

... Corporate Debtor

Order pronounced on 28.04.2020

Coram:

Mr. Rajasekhar V.K. : Hon'ble Member (Judicial)

Mr. Ravikumar Duraisamy : Hon'ble Member (Technical)

Appearances:

For the Applicant/RP : Mr Ayush Agarwala, i/b K-Law,
Advocates, a/w Ms Priya Geddi,
representative of Axis Bank
Limited.

Interim Resolution Professional : Mr Harshad Shah, IRP in person.

ORDER

Per: Rajasekhar V.K., Member (Judicial)

1. This is an Interlocutory Application (IA) filed by Axis Bank Limited, acting on behalf of the Committee of Creditors (CoC) of Tribhovandas Bhimji Zaveri & Sons Retail Private Limited, under sections 22(2) and 22(3)(b) of the Insolvency & Bankruptcy Code, 2016 (IBC), seeking approval for replacing Mr Hemant Shah, Interim Resolution Professional (IRP), with Mr Saurabh Tikmani as Resolution Professional (RP) of the Corporate Debtor.
2. This Adjudicating Authority had, *vide* order dated 16.12.2019 in CP (IB) No.2979/2019, had admitted the petition filed under section 9 of the IBC and ordered initiation of Corporate Insolvency Resolution Process (CIRP) against Tribhovandas Bhimji Zaveri & Sons Retail Private Limited, the Corporate Debtor, and appointed Mr Harshul Anilkant Shah as the IRP.
3. Public announcement of the CIRP was duly made on 20.12.2019 under section 13 of the IBC read with regulation 5 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Committee of Creditors (CoC) was duly constituted with Axis Bank Limited as the sole financial creditor.
4. Meanwhile, one Mr Hemant Zaveri challenged the order of admission dated 16.12.2019 before the Hon'ble National Company Law Appellate Tribunal (NCLAT). This Company Appeal (AT) (Insolvency) No.60/2020 came up for hearing on 16.01.2020. The

Hon'ble NCLAT ordered notice to be issued to the respondents, and gave the following directions:

“In the meantime, the ‘Interim Resolution Professional’ will ensure that the company remains going concern and will take assistance of the (suspended) Board of Directors and the officers/ Directors/employees. The person who are working will perform their duties including the paid Directors. The person who is authorised to sign the bank cheques may sign cheques only after authorisation of the ‘Interim Resolution Professional’ with counter signature of the ‘Interim Resolution Professional’ at the back side of the cheques. In such case, the Bank shall release the payment. The ‘Interim Resolution Professional’ will place this order before the Banks, in which accounts of ‘Corporate Debtor’ are maintained. The Bank Account(s) of the ‘Corporate Debtor’ be allowed to be operated for day-to-day functioning of the company such as for payment of Current Bills of the Suppliers, Salaries and Wages of the employees/ workmen, electricity bills etc.”

The Appeal is under consideration before the Hon'ble NCLAT.

5. The first meeting of the CoC was held on 16.01.2020, at which it was resolved to appoint Mr Saurabh Tikmani (Reg. No.IBBI/IPA-001/IP-P00559/2017-18/10989) as the RP of the Corporate Debtor in place of Mr Harshul Anilkant Shah, IRP. The voting result has been placed at p.47 of the Interlocutory Application. Mr Saurabh Tikmani has also filed his written consent in Form AA to act as RP of the Corporate Debtor, which has been placed on record at p.48 of the Application. There are no circumstances that inhibit the appointment of Mr Saurabh Tikmani as such RP.
6. This Bench after duly considering the facts and circumstances mentioned in the interlocutory application and the submissions made by the learned counsel for the Applicant/ RP at the time of

hearing held on 28.02.2020, hereby grants approval for the appointment of Mr Saurabh Tikmani [Reg. No.IBBI/IPA-001/IP-P00559/2017-18/10989] as the RP of Tribhovandas Bhimji Zaveri & Sons Retail Private Limited [CIN: U74999MH2015PTC263038], the Corporate Debtor.

7. IA No.575/2020 in CP (IB) No.2979/2018 is disposed of accordingly.

Ravikumar Duraisamy
Member (Technical)

Rajasekhar VK
Member (Judicial)

28.04.2020