



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
COURT VI, NEW DELHI**

**I.A. 1041/2023**

**IN**

**Company Petition No. (IB) – 370/(ND) /2020**

*Under Section 60(5) of the Insolvency and Bankruptcy Code,  
2016*

**In the matter of:**

**M/s. Luxmi Electricals and Engineering Works**

Through Its Sole Proprietor Mr. Varinder Arora

Registered Office at: 1 D/98, N. I.T., Faridabad,

Haryana-121001

...Operational Creditor

**Versus**

**M/s. SNG Techno Build Pvt. Ltd.**

Formerly known as M/s. SNG Vardhman Techno Build Pvt. Ltd.

Registered Office at: 112, Indraprakash Building,

21 Barakhamba Road, New Delhi 110001

Corporate Office at: C-13, Community Centre,

Janak Puri, New Delhi – 110058

...Corporate Debtor



**And in the matter of:**

**M/s. Luxmi Electricals and Engineering Works**

Through Its Sole Proprietor Mr. Varinder Arora  
Registered Office at: 1 D/98, N. I.T., Faridabad,  
Haryana-121001

...Applicant/Operational Creditor

**Versus**

**1. M/s. SNG Techno Build Pvt. Ltd.**

Formerly known as M/s. SNG Vardhman Techno Build Pvt. Ltd.  
Registered Office at: 112, Indraprakash Building,  
21 Barakhamba Road, New Delhi 110001  
Corporate Office at: C-13, Community Centre,  
Janak Puri, New Delhi – 110058

...Respondent No. 1

**2. Mr. Yogesh Kumar Gupta**

Erstwhile Insolvency Resolutional Professional  
C-178, Basement, Kalkaji, New Delhi-110019

...Respondent No. 2

**CORAM:**

**SHRI. BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)**

**SHRI. RAHUL BHATNAGAR, MEMBER (TECHNICAL)**

For the Applicant: Mr. Kushagra Bansal, Advocate



## **ORDER**

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

**Date: 27.03.2023**

1. This is an application filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the “Code”) for substitution of Insolvency Resolution Professional in the abovementioned case.
2. The facts in brief are that the Financial Creditor had filed an application under Section 9 of the Code, bearing number IB-370/(ND)/2020, for initiation of Corporate Insolvency Resolution Process (CIRP), against the Corporate Debtor. The said application was admitted by this Tribunal on 14.03.2022, thereby initiating CIRP against the Corporate Debtor and therein, appointing Mr. Yogesh Kumar Gupta as the Interim Resolution Professional (IRP).
3. That the Operational Creditor as per the directions passed by this Tribunal also deposited an amount of INR 2 lacs in the favour of Mr. Yogesh Kumar Gupta erstwhile IRP on 25-03-2022.



- 4.** That the Corporate Debtor filed an appeal bearing no. Company Appeal (AT)(Insolvency) No. 368/2022 titled as '*Harinder Bashista v Luxmi Electrical and Engineering Works and Anr.*' before the Hon'ble National Company Law Appellate Tribunal, Delhi. The Hon'ble National Company Law Appellate Tribunal vide its order dated 07.04.2022 issued notice in the aforesaid Appeal and further stayed the constitution of COC by the IRP.
- 5.** That the Operational Creditor duly appeared before the Hon'ble National Company Law Appellate Tribunal and filed its reply to the above mentioned appeal of the Corporate Debtor. The aforesaid appeal is listed for final arguments.
- 6.** That on 14.10.2022, the IRP Mr. Yogesh Kumar Gupta had filed a IA bearing No. 3078 of 2022 wherein the IRP stated before the Hon'ble National Company Law Appellate Tribunal that the IRP had been suspended for a period of three years by IBBI. In view of the submissions of the IRP, the Hon'ble National Company Law Appellate Tribunal vide its order dated 14.10.2022 directed the Operational Creditor to move an appropriate



application before this Tribunal to appoint a new IRP in the aforesaid matter. Hence, the instant application.

**7.** That the Operational Creditor had already deposited an interim amount of INR 2 lacs in favour of the erstwhile IRP. But, after the publication of FORM-B, there has been no work in view of the pendency of the Appeal before Hon'ble National Company Law Appellate Tribunal. The IRP has neither constituted the CoC nor verified the claim of the creditors even before passing of the stay order by the Hon'ble National Company Law Appellate Tribunal, New Delhi. Hence, the deposited amount of INR 2 Lacs must be refunded by the erstwhile IRP and the same may be adjusted against the appointment of the new IRP.

**8.** We have gone through the submissions made by the Applicant. In light of the suspension of the erstwhile IRP by IBBI and the directions of Hon'ble NCLAT, this Tribunal allows the present Application and appoints Ms. Rashmi Mintri (Email – ca.rashmimintri@gmail.com), Reg. No: IBBI/IPA-001/IP-P00708/2017-2018/11185 to act as Insolvency Resolution Professional from the panel



of Insolvency Professionals (IPs) valid from the period 01.01.2023 to 30.06.2023 issued by IBBI in terms of Section 16(4) of the IBC, 2016. She shall take such other and further steps as are required under the statute, more specifically in terms of Section 15, 17 and 18 of the Code and file her report within 30 days before this Bench.

**9.** The Applicant shall deposit a sum of Rs. 2 lakhs to enable the IRP to meet the immediate expenses. The same shall be accounted for by the IRP and shall be reimbursed to the Applicant to be recovered as costs of the CIRP. Further, the erstwhile IRP, Mr. Yogesh Kumar Gupta, is directed to refund the Applicant any unutilized amount from the amount of Rs. 2 Lacs deposited by the Applicant/Operational Creditor as per the directions passed by this Tribunal. The erstwhile IRP shall while refunding such unutilized amount and also give details to the Applicant of any amount utilized.

**10.** The Interim Resolution Professional shall perform all his functions contemplated, inter-alia, by Sections 15, 17, 18, 19, 20 & 21 of the Code and transact proceedings



with utmost dedication, honesty and strictly in accordance with the provisions of the Code, Rules and Regulations. It is further made clear that all the personnel connected with the Corporate Debtor, its promoters or any other person associated with the Management of the Corporate Debtor, are under legal obligation under Section 19 of the Code to extend every assistance and cooperation to the Interim Resolution Professional, as may be required by him, in managing the day-to-day affairs of the 'Corporate Debtor'. In case there is any violation committed by the ex-management or any tainted/illegal transaction by ex-directors or anyone else, the Interim Resolution Professional would be at liberty to make appropriate application to this Tribunal with a prayer for passing an appropriate order. The Interim Resolution Professional shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor' as a part of his obligation, imposed by Section 20 of the Code and perform all his functions strictly in accordance with the provisions of the Code, Rules and Regulations.

RAHUL PRASAD BHATNAGAR  
Digitally signed by RAHUL PRASAD BHATNAGAR  
Date: 2023.03.28 10:37:28 +05'30'



**11.** The office is directed to communicate a copy of the order to the Operational Creditor, the Corporate Debtor, the Interim Resolution Professional and the Registrar of Companies, NCT of Delhi & Haryana, at the earliest possible but not later than seven days from today.

RAHUL  
PRASAD  
BHATNAGAR

Digitally signed by  
RAHUL PRASAD  
BHATNAGAR  
Date: 2023.03.28  
10:37:39 +05'30'

**(RAHUL BHATNAGAR)**  
**MEMBER (TECHNICAL)**

BACHU  
VENKAT  
BALARAM  
DAS

Digitally signed by  
BACHU VENKAT  
BALARAM DAS  
Date: 2023.03.28  
11:11:32 +05'30'

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