



IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT – II)

Item No. 301
(IB)-23(ND)2021
New IA- 1835/2024

IN THE MATTER OF:

M/s. VA Realcon Pvt Ltd.

...

Appellant/Petitioner

Versus

M/s. Avail Holding Ltd.

...

Respondent

Under Section: 9 of IBC, 2016

Order delivered on 06.05.2024

CORAM:

SH. ASHOK KUMAR BHARDWAJ
HON'BLE MEMBER (J)

SH. SUBRATA KUMAR DASH
HON'BLE MEMBER (T)

PRESENT:

For the Appellant : Adv. Mateen Ahmad, Adv. R M Asif

For the RP :

Hearing Through: VC and Physical (Hybrid) Mode

ORDER

IA-1835/2024: The Ld. Counsel for the Applicant could draw our attention to the Resolution dated 09.03.2024 passed by the CoC, resolving to replace the IRP Mr. Parveen Bansal with Mr. Satyendra Sharma. The relevant excerpt of the resolution reads thus:-

"Resolution 3:

"RESOLVED THAT. Committee of Creditors be and is hereby approves for the continuation of CA Parveen Bansal, who is working as interim resolution professional of Avail Holding Private Limited ("Corporate Debtor") as resolution professional in terms of section 22(3)(a) of Insolvency and Bankruptcy Code, 2016.

RESOLVED FURTHER that CA Parveen Bansal is be and is hereby authorized to file the application before Adjudicating Authority to communicate the decision of Committee of Creditors and to do all such acts, deeds and things as may be considered necessary to communicate the decision of Committee of Creditors."

The IRP requested for voting on the resolution one by one to the members of Committee of Creditors. All the members of Committee of



*Creditors voted in favour of the resolution. Accordingly, **the chairman declared that the resolution stands rejected with 100% vote share of the Committee of Creditors.***

Appointment of resolution professional

The Chairman apprised the members that Utsav Securities, who is one of the financial creditors of the Corporate Debtor has proposed for appointment of Mr. Satyendra Sharma, an insolvency professional vide e mail dated 28-02-2024 and has shared his consent form in Form AA.

The Committee of Creditors deliberated on the appointment of Resolution Professional and placed the following resolution for physical voting:”

As can be seen from the provisions of Section 22(3) of IBC, 2016, where the Committee of Creditors resolves under sub-section 23(2) of IBC, 2016 to replace the IRP, on application filed by it, this Adjudicating Authority shall in consultation with IBBI confirm the appointment of the proposed Resolution Professional. Nevertheless, the IBBI has already dispensed with the requirement of the procedure prescribe in sub-section 4 & 5 of Section 22 of the Code. In the wake, in terms of the Resolution passed by CoC, the appointment of Mr. Sharma as IRP is confirmed. The Ld. Counsel for the IRP pressed the issue regarding non-payment of fees. The Ld. Counsel for the CoC categorically submitted that the fee of the IRP should be paid within four weeks from today. **The application stands disposed of. No Cost.**

Sd/-

**(SUBRATA KUMAR DASH)
MEMBER (T)**

Sd/-

**(ASHOK KUMAR BHARDWAJ)
MEMBER (J)**