

NATIONAL COMPANY LAW TRIBUNAL

AMARAVATI BENCH

27

PRESENT: HON'BLE SHRI BHASKARA PANTULA MOHAN – MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 17.03.2021 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA(IBC)/8/2021in CP(IB) NO. 197/9/AMR/2019
NAME OF THE COMPANY	MVK Global Enterprises Pvt Ltd
NAME OF THE PETITIONER(S)	Viki Industries Pvt Ltd
NAME OF THE RESPONDENT(S)	MVK Global Enterprises Pvt Ltd
UNDER SECTION	9 OF IBC

Counsel for Petitioner(s):

Ries

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
M.S. SRINIVAS M. Srinivas 116 USRA	CA	9820157462	M. Srinivas
Ravi Raja Gopalan, G. Bhupesh C. Madhula for Oc	Advocate	9966622805	

Counsel for Respondent(s):

Ries

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
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**ORDER**

Heard. I.A.No.8/2021 in CP (IB) No.197/9/AMR/2019 is disposed off. Vide Separate Sheet.

Sd/-

MEMBER JUDICIAL

**NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI BENCH**

**IA No.8 of 2021  
IN  
TCP (IB) No.197/9/AMR/2019**

**Under Section 60(5) of IBC Code, 2016**

In the matter of

**M/s. MVK Global Enterprises Private Limited**

**BETWEEN:**

Sri.Mannava Divakara Sarma,  
Interim Resolution Professional (IRP) of  
M/s.MVK Global Enterprises Private Limited (under CIRP)  
5-4-11, 2/3, Brodipet, Guntur -522002

...Applicant

**And**

M/s.Viki Industries Private Limited  
Registered Office: 1, Krishna Steel,  
Nungambakkam, Chennai -600034

...Respondents/Operational Creditor

**Order dated on: 17.03.2021**

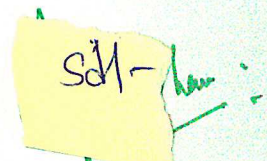
**Coram: Bhaskara Pantula Mohan, Member Judicial.**

Parties/Counsels present:

For the Applicant : Mr. M.S.Srinivas, PCA  
For the Respondent : Mr.Ravi Raj Gopalan, Advocate &  
Mr. G.Bhupesh, Advocate

**ORDER**

1. This is an Application filed Under Section 60(5) of IBC Code, 2016 seeking orders from this Hon'ble National Company Law Tribunal for:



- a) Appoint another IP as the Resolution Professional, if it decides not to cancel/terminate the CIRP process of the Corporate Debtor;
- b) Direct the Respondent/Operational Creditor to pay the Applicant/Corporate Debtor the amounts towards his fee till the time he is absolved of his responsibilities as the Resolution Professional hold along with the amount he spent towards the CIR Process till that time;
- c) So that IBBI does not take any action on the Applicant/Corporate Debtor for his inability to undertake his duties due to lack of resources and cooperation from the Respondent/Operational Creditor;
- d) Exclude the period of 17.01.2021 (the date of the first CoC from which date no activity of CIR Process could be taken up) till the date the Applicant/Corporate Debtor is replaced by another Resolution Professional or till the date the CIR Process is cancelled /terminated as the case may be;

And

To pray the Hon'ble Tribunal may approve and ratify all the actions undertaken by the IRP during the Corporate Insolvency Resolution

Sd/-

Process from 18.12.2020 till date, and this I.A.No.8/2021 filed against the Respondent/Operational Creditor.

2. The brief facts of the Application are that:
  - i. That the Applicant herein and Corporate Debtor in the Company Petition under section 9 of the IBC Code, 2016 and the Company Petition numbered as CP (IB) No.197/9/AMR/2019 against M/s.MVK Global Enterprises Private Limited.
  - ii. The Corporate Debtor M/s. MVK Global Enterprises Private Limited is under CIRP process and appointed by Mr.Kalyanam Raja Gopal (IRP) vide order dated 20.05.2020 by this Hon'ble Bench.
  - iii. Thereafter Mr.Kalyanam Raja Gopal, IRP requesting this Bench vide email date 24.05.2020, he would not be interested in taking up the CIRP process due to Covid situation.
  - iv. On 18.12.2020, the Hon'ble Tribunal appointed the Applicant Mr.Mannava Divakara Sarma (IBBI/IPA-001/IP-P01192/2018-19/11917) as the IRP and conduct the CIRP of the Corporate Debtor.

*Sd/-*

- v. On 19.12.2020, the Applicant visited the Registered Office address of the Corporate Debtor. But the premises were locked and no one was available. Applicant approached the One Mr.Vinod Kumar Musunuru (Suspended Director) over phone call and gathering some information of Corporate Debtor Bank Accounts and he issued letters to Bankers for not to allow any debits in the Corporate Debtor Bank Accounts.
- vi. The Applicant further submit that he visited the Corporate Debtor registered office address many times but the premises were vacated and that the rent also pending by the Corporate Debtor.
- vii. On 21.02.2020, Applicant released paper publication in Prajrasakthi (Telugu) and Times of India (English) newspapers in Form –A, inviting claims from all the Creditors of the Corporate Debtor before 01.01.2021.
- viii. In terms of Public Announcement, the Applicant /IRP received only one claim for Rs.37,10,649/- from M/s.VIKI Industries Private Limited, Respondent/Operational Creditor and verified the claim and the same is admitted.
- ix. On 09.01.2021 the Applicant proceeded to constitute the CoC. As There are no Financial Creditors. M/s. VIKI Industries

Private Limited is the lone voting member in the CoC with 100% voting rights.

3. Heard. The Counsel representing the Operational Creditor submits that in view of the fact that there are no assets and liabilities of the Corporate Debtor. The CIRP (Corporate Insolvency Resolution Process) process could not be proceeded and this Operational Creditor had become the sole member of the CoC (Committee of Creditors). However, the Operational Creditor is prepared to pay an amount of Rs.3,16,097/- as CIRP expenses to the RP. The RP also submits that CIRP process is suspended but the order sending the Corporate Debtor from the CIRP is recalled with effect from 03.03.2021. Having perused the records and after looking into the merits of the matter it is my considered view that when there are no assets and liabilities and the Operational Creditor becomes the sole member of the CoC, it is very difficult to proceed with the CIRP Process and the purpose of IBC will not serve if this kind of piquant situation arises.
4. Taking into consideration all the facts as submitted by the RP and the Operational Creditor and also in the absence of any other party claiming any right of whatsoever in nature, this Bench is left with no other Option but render justice to the parties involved and the very reason why the CIRP Process is initiated becomes frustrated

Sd/-

and hence the order passed by the Adjudicating Authority on 20.05.2020 sending the Corporate Debtor for CIRP Process is hereby recalled with the observation that the Operational Creditor would pay CIRP expenses as undertaken by him.

Hence, this order. Accordingly, I.A.No.8/2021 is disposed off.

sd/-

**BHASKARA PANTULA MOHAN,  
MEMBER JUDICIAL**

*RSN*