

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

C.P. (IB)No.32/BB/2017  
U/s. 9 of the IBC, 2016  
R/w Rules 6 of I&B (AAA) Rules, 2016

**And**

I.A. No.401/2019  
U/s. 12A of the IBC, 2016  
R/w Rule 30A of IBBI  
(Insolvency Resolution Process for  
Corporate Persons) Regulations, 2016

**Smt. Manjula B.S**

*Resolution Professional of  
M/s. Nandi Engineering Limited*

No.1, 4<sup>th</sup> Floor,  
1<sup>st</sup> Main Road, 8<sup>th</sup> Cross  
Prashanthnagar,  
Bengaluru – 560 079 - Applicant/RP

**In the matter of:**

M/s. IL&FS Engineering and Construction Co. Ltd  
(Formerly known as Maytas Infra Limited)  
Regd. Off. Sanali Info Park,  
Cyber Towers, Door No.8-2-120/113/3/4F,  
Road No.2, Banjara Hills,  
Hyderabad – 500 033 - Petitioner/Operational Creditor

**Versus**

M/s. Nandi Engineering Limited  
Regd. Off. No.1 Midford House,  
M.G. Road,  
Bengaluru - 560 001 - Respondent/Corporate Debtor

**Date of Order: 22<sup>nd</sup> August, 2019**

**Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)  
2. Hon'ble Dr. Ashok Kumar Mishra, Member (Technical)

**Parties/Counsels Present:**

For the Applicant : Shri S. Vivekananda along with  
Shri Theerthesh B.S  
For the Petitioner : Anarghya K Chandar

**ORDER**

**Per:** Rajeswara Rao Vittanala, Member (J)

1. I.A.No.401/2019 in C.P. (IB)No.32/BB/2017 is filed by Smt. Manjula B.S, Resolution Professional of M/s. Nandi Engineering Limited ('Applicant'), U/s.12A of the IBC, 2016 R/w Rule 30A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, by inter alia seeking to permit the Applicant/RP to withdraw the main Company Petition for the grounds mentioned in the application.
2. Brief facts of the case, as mentioned in the Application, which are leading to filing of the instant Application, are as follows:-
  - (1) Initially C.P.(IB)No.32/BB/2017 is filed by M/s. IL&FS Engineering and Construction Co. Ltd (Petitioner/Operational Creditor) U/s. 9 of the Code, R/w. Rule 6 of the I&B (AAA) Rules, 2016, by inter alia seeking to initiate CIRP in respect of M/s. Nandi Engineering Limited (Respondent/Corporate Debtor) on the ground that it has committed, default for an amount of Rs.12,48,00,000/- (Rupees Twelve Crores Forty

Eight Lakhs only). Accordingly Adjudicating Authority admitted the case on 04.01.2019, by initiating CIRP and appointing IRP, moratorium etc.

- (2) Accordingly, the Resolution Professional, made public announcement for inviting claims from the respective creditors of the Corporate Debtor, on 07<sup>th</sup> January, 2019 in Financial Express (in English) and in Kannada Prabha (in Kannada). In pursuance to the notification, she has received 14 claims from Operational Creditor including the claim from the Financial Creditor. Further, constitute a Committee of Creditors within 30 days of his appointment as IRP. The Committee of Creditors was constituted by the IRP with Operational Creditors and Financial Creditors of the Corporate Debtor.
- (3) Accordingly, IRP has conducted the First meeting of Committee of Creditors on 09.02.2019, by inter alia members of CoC passed the Resolution for appointment of Interim Resolution Professional as Resolution Professional, wherein, Smt. Manjula.B.S, Interim Resolution Professional; Shri Bhavesh Surana, Authorised Representative of M/s. Kantilal Infra Pvt. Ltd, (constituting 44.95%); Shri Sandeep S, Authorised Representative of M/s. Kalpen Ventures Private Limited (constituting 5.05%); Shri Satyanarayan.K, Authorised Representative of M/s. Peoples Education Society (50.00%); Mr. Gangavaram Pulla Reddy, Director GPR infra Projects Private Limited, Operational Creditor whose due is more than 10% of the total debt; Shri A. Rudra Goud, Authorised Representative of



Mr. Prasad Devangam, Director of the Corporate Debtor, were present, in the first meeting by a majority vote of not less than Sixty-Six (66%) of the voting Shares of the Financial Creditors, either resolve to appoint the IRP as a Resolution Professional or replace the IRP by another Resolution Professional. Thereafter, the Resolution Professional has appointed 2 Registered Valuers to determine the liquidation value of the Corporate Debtor in accordance with the provisions of the code. In the regard Six (6) Registered Valuers were appointed on 15.02.2019 by the Resolution Professional.

- (4) Consequently, during 2<sup>nd</sup> CoC meeting held on 20<sup>th</sup> March, 2019, basing on the claims preparation of evaluation matrix and invitation for Expression of Interest to the prospective Resolution Applicants in accordance with the provisions of the Section 25 of the Code, to submit the resolution Plans at least 30 days before the last date of submission of resolution plans. The Resolution Professional invitation for Expression of Interest (EoI) in form G was published on 22.03.2019 for submission of Resolution Plan for the revival of the Corporate Debtor. However, no expression of interest was received from the prospective Resolution Applicants. Hence, EoI was once again issued and published on 30<sup>th</sup> July 2019.
- (5) During 4<sup>th</sup> CoC meeting held on 9<sup>th</sup> July 2019, it was inter alia submitted that there was no expression of interest received for the revival of the Corporate Debtor. In pursuance to the above COC, again the Resolution Professional has filed an I.A. before the Adjudication Authority for extension of time of CIRP Process by another 90 days. Thereafter, in the 5<sup>th</sup> Meeting of

the COC, held on 26<sup>th</sup> July 2019, by inter alia received a request on 05.08.2019, for withdrawal of Application u/S.12A of the Code R/w Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 in Form FA from the Petitioner. Further, as per Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for withdrawal of application admitted for initiation of CIRP, shall be approved by the Members of the Committee of Creditors with 90 percent. Voting share of the Committee of Creditors and request shall be accompanied by a bank guarantee towards estimated expenses incurred on or by the Resolution Professional till the date of filing of this application. However, all the expenses incurred by the Resolution Professional during CIRP period are paid from the Corporate Debtors Bank Account and no expenses pending for payment.

- (6) At the 6<sup>th</sup> meeting of CoC held on 7.8.2019, the Committee of Creditors constituting 100% of voting shares approved the request for withdrawal of application admitted under Section 9 of the Code for initiation of CIRP of the Corporate Debtor and authorized the undersigned to file necessary application for withdrawal of application admitted Under Section 9 of the Code, as requested in the earlier COC meeting and permitted the Resolution Professional to take necessary action and to file Application, forms, documents before the Adjudicating Authority.



3. Heard Shri S. Vivekananda along with Shri Theerthesh B.S, learned Counsel for the Resolution Professional and Ms. Anarghya K Chandar, learned Counsel for the Petitioner. We have carefully perused the pleadings of the parties and extant provision of the Code and law on the issue.
4. Shri S. Vivekananda, learned Counsel representing for the Resolution Professional, the instant Application has filed in strictly accordance with law, and the CoC duly constituting has resorted to withdrawing the instant Petition unanimously and cost of the meeting and all other expenses incurred by the Resolution Professional during CIRP period also accepted by the Corporate Debtor i.e. an amount of Rs. 5,16,014/- (Rupees Five Lakhs Sixteen Thousand Fourteen only).
5. On perusal of the application along with supported documents, we found that the instant Application is filed in accordance with the provisions of code the Rules made thereunder. The COC has unanimously resolved to file the instant Application. Therefore, we are inclined to permit the withdrawal of the instant Company Petition subject to restricting the fees of valuers.
6. In the in the result, by exercising powers conferred on this Adjudicating Authority, U/s 12A of the IBC, 2016 R/w Regulation 30A (1) (a) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, we hereby allowed I.A. No. 401/2019 by permitting the Applicant to withdraw the main Company Petition. Accordingly, the CIRP initiated against the Corporate Debtor is hereby terminated. However, we hereby restricted and



allowed Professional charges paid to Shri Ranganath (Rs.1,18,000/-), Shri Subhajit Guha (Rs.85,000/-), Shri Inturi Veeraiah (Rs.1,18,000/-), Shri Maaz Warsi (Rs.85,448/-) is hereby restricted to 75% of their claim made by Shri Ranganath, Shri Subhajit Guha, Shri Inturi Veeraiah, Shri Maaz Warsi. Accordingly, C.P. (IB) No.32/BB/2017 is disposed of as infructuous. No order as to costs.

**(ASHOK KUMAR MISHRA)**  
**MEMBER, TECHNICAL**

**(RAJESWARA RAO VITTANALA)**  
**MEMBER, JUDICIAL**

Shruthi