

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI**

MA/1126/2019 in CP/1475/(IB)/2018
filed under Section 12 (A) of the IBC,
2016 and 30 (A) of the (Insolvency
Resolution Process for Corporate
Persons) Regulations, 2016

In the matter of *M/s. THAY LIFT AND SHIFT PRIVATE LIMITED*

Mr. V. Duraisamy,
Interim Resolution Professional,
of Thay Lift and Shift Private Limited,
No.397, Precision Plaza, Third Floor,
Teynampet, Chennai – 600 018.

... Applicant / IRP

-Vs-

1. **M/s. Vanjax Sales Private Ltd.,**
No.343, SIDCO Industrial Estate,
Ambattur, Chennai – 600 098. ...Respondent/CIRP Applicant
2. **Mr. Gandhi Selvam,**
Suspended Board of Director of
M/s. Thay Lift and Shift Private Limited,
No.610, S.A. Poly Technic College (Opp),
Ayapakkam Road, Paruthipattu,
Avadi, Chennai 600 071.
3. **Mrs. Sivanantha Thayammal,**
Suspended Board of Director of
M/s. Thay Lift and Shift Private Limited,
No.610, S.A. Poly Technic College (Opp),
Ayapakkam Road, Paruthipattu,
Avadi, Chennai 600 071.

... Respondents / Corporate Debtors

Order Pronounced on 23rd April 2021

CORAM :

R. VARADHARAJAN, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)

For Applicant / IRP : Mr. A.G. Sathyanarayana, Advocate

*For 1st Respondent /
Operational Creditor* : Mr. Peruman Saranyan, Advocate

ORDER

Per: R. VARADHARAJAN, MEMBER (JUDICIAL)

1. This is an Application moved by the Insolvency Resolution Professional appointed by this Tribunal while initiating the Corporate Insolvency Resolution process in relation to the Corporate Debtor vide order dated 28.06.2019.

2. This Application has been filed under Section 12(A) of the Insolvency & Bankruptcy Code, 2016 (IBC, 2016) r/w Regulation 30(A) of the (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 as framed by the IBBI seeking for the following reliefs:-

- a. *That this Hon'ble Adjudicating Authority may be pleased to pass necessary orders to withdraw the CIRP initiated against the Corporate Debtor M/s.Thay Lift and Shift Private Limited as per the Section 12(A) of the Code, and under Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and / or*
- b. *That this Hon'ble Adjudicating Authority may be pleased to pass an order and directing the CIRP applicant and CD that the pay CIRP cost and*

Professional fees of Interim Resolution Professional Mr. V. Duraisamy having Registration No.IBBI/ IPA-002/IP-N00609/2018-19/11862) as under Regulations 33(3) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and / or

For such other orders and further reliefs as the nature and circumstances of the case may require.

3. In relation to the reliefs as sought for it is averred in the Application that pursuant to the order dated 28.06.2019 initiating the CIRP of the Corporate Debtor, the IRP had made public announcement on 04.07.2019 in two newspapers viz., DT Next, English daily and Makkal Kural, Tamil daily and has also uploaded the same in the website of Insolvency & Bankruptcy Board of India viz., www.ibbi.gov.in calling for the claims from the Creditors of the Corporate Debtor and further it is also averred that Regulations which have been framed under the provisions of Code have also been followed.

4. In relation to the publication calling for the claims, it is averred that the Applicant had received a claim only from the 1st Respondent in the capacity as an Operational Creditor claiming a sum of Rs.52,50,960/- and that no Financial Creditor has preferred a claim before the IRP, in response to the publication.

5. In the circumstances in terms of Regulations, 2016 of the (Insolvency Resolution Process for Corporate Persons),

Regulations, 2016, the sole Operational Creditor with 100% voting rights constituted the CoC. In the 1st CoC meeting, it is averred that instead of appointing a Resolution Professional, the CoC wanted to withdraw this Application and in this connection intimated the IRP the decision of the CoC seeking for withdrawal to be filed before the Adjudicating Authority viz., this Tribunal on 07.08.2019.

6. Further the IRP had also received an Application seeking for withdrawal in Form 'FA' in accordance with Regulation 30(A) from the sole member of CoC, who happened to be the Operational Creditor which had in the first place triggered the CIRP of the Corporate Debtor. During the course of submissions, Learned Counsel for the Applicant pointed out the Form 'FA' which had been annexed as Annexure 'G' at Page No.28 of the typed set. In the circumstances, as averred in the Application, this Application has been filed seeking for the reliefs as prayed for.

7. Upon notice, the 1st Respondent is being represented by its Counsel Mr. Peruman Saranyan. None appears for the 2nd or 3rd Respondents. Learned Counsel for the 1st Respondent / Operational Creditor represents that on its part he has filed counter to the Application and concurs with the averment made in the Application that Form 'FA' as provided under Regulations 30(A) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations,

2016 had been lodged and points out to Page No.34 of the typed set which has been duly filed along with the counter.

8. In relation to the claim for fees made by the Applicant / IRP, it is represented that a sum of Rs.75,000/- has already been paid and that in view of only a single CoC meeting was convened viz., the 1st CoC which was held on 07.08.2019, no other activity has taken place in relation to the Corporate Debtor and in the circumstances additional fees, if any, sought for by the Applicant is not justified. On his part, the Learned Counsel for the Applicant / IRP represents that the relief as sought for in Clause No.b of Paragraph No.5 is not pressed.

9. Taking into consideration the Application as filed by the Applicant / IRP as well as the sole Operational Creditor who had constituted the CoC had given its approval seeking withdrawal of the CIRP initiated by this Tribunal, based on the Application filed by the Operational Creditor / 1st Respondent in Form 'FA' and also considering the Provisions of Section 12(A) and Regulations 30(A) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 as well this Application in relation to seeking for withdrawal of the CIRP is **allowed**.

10. In the circumstances, let the reins of the Corporate Debtor with the IRP be handed over to the Board of Directors, whose powers stood suspended by virtue of initiation of the CIRP as

against the Corporate Debtor. Further any assets collected or any records collated by the IRP during the process of CIRP shall also be duly handed over to the Management / Board of Directors, whose powers stand **restored** from the date of this order.

-Sd-

(ANIL KUMAR B)
MEMBER (TECHNICAL)

ghk

-Sd-

(R. VARADHARAJAN)
MEMBER (JUDICIAL)