

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1**

ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
14-02-2022 AT 10:30 A.M. THROUGH VIDEO CONFERENCE.

IA 785, 857&858/2019 & IA 72,193&629/2020
CP(IB) No.181/7/HDB/2019
U/s 7 of IBC, 2016

IN THE MATTER OF:

Laxmi Kantha Rao Thota

...Financial Creditor

Vs

IRIS Electro Optics Pvt Ltd

...Corporate Debtor

CORAM:-

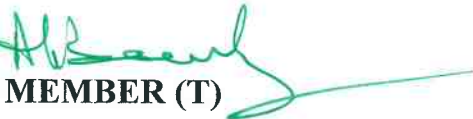
DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. VEERA BRAHMA RAO AREKAPUDI, HON'BLE MEMBER (TECHNICAL)

ORDER

Orders in IA(IBC)785/2019 pronounced vide separate sheets. In the result, IA 785/2019 is allowed, as a *sequel*, the Company Petition No. CP(IB)181/7/HDB/2019 filed by the 3rd respondent Mr. Laxmi Kantha Rao Thota, on the file of this Tribunal, stands dismissed.

The 1st respondent Corporate Debtor is hereby freed from the rigour of the moratorium ordered by this Tribunal.

We, further hereby, order that the 3rd respondent Mr.Laxmi Kantha Rao Thota, who is the Petitioner in Company Petition No.CP(IB)181/7/HDB/2019 on the file of this Tribunal, to pay the penalty of Rs.1,00,00,000/- (Rupees One Crore only) within 30 days from the date of this Order through online payment in Bharatkosh.gov.in (Non-Tax Receipt Platform -NTRP).


MEMBER (T)


MEMBER (J)

Srinivas

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - I**

IA No.785 OF 2019

In

C.P (IB) No.181/7/HDB/2019

(Under Section 21(2), 22(2), 28, 60(5)(c) and 65 of the I&B Code, 2016)

In the Matter of:

Bank of India
Cherlapally Branch
EC Nagar, Cherlapally
Hyderabad – 500 051

**...Applicant/Member of CoC/
Sole Secured Creditor**

Vs.

1. **M/s.IRIS Electro Optics Pvt Ltd.**
119/3, Phase-II, IDA
Cherlapally
Hyderabad – 500 051
2. **Mr. C. Srinivasan**
Insolvency Professional
1-4-211/42/1, Pradhamapuri Colony
Sainikpuri
Hyderabad – 500 062
3. ***Mr. Laxmi Kantha Rao Thota**
S/o Yadagiri Rao Thota
Aged about 46 years
R/o 88, Maple Town, Sun City
Bandlaguda Jagir, Rajendra Nagar
K.V. Ranga Reddy
Hyderabad- 500 086.

*(impleaded vide Suo moto
order of this Tribunal,
dated 26.10.2021.)



...

Respondents



Date of Order: 14.02.2022

Coram:

Hon'ble Dr. Venkata Rama Krishna Badarinath Nandula, Member (Judicial)
Hon'ble Shri Veera Brahma Rao Arekapudi, Member (Technical)

Parties / Counsels Present:

For the Applicant : Mr.V. Sethu Madhava Rao, Advocate

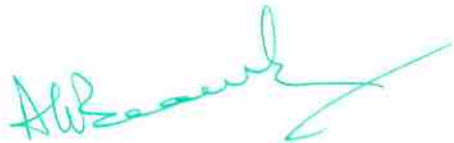
For Respondents 1&2 :Mr. Chakravarthi Srinivasan, RP.

For 3rd Respondent :Mr. V.K.Sajith, Advocate

PER: BENCH

ORDER

- I. One of the Financial Creditors, Bank of India, Cherlapally Branch, through its Senior Branch Manager, hereinafter referred to as 'Applicant', has filed this application praying for:
- recall of the Order dated 28.03.2019 admitting the Company Petition in C.P (IB) No.181/7/HDB/2019 against the 1st respondent herein;
 - alternatively, to approve the appointment of Mrs. G. Kalpana as Resolution Professional, in place of the 2nd respondent;
 - to declare that the voting share of 36.05% allotted to Mr. Laxmi Kantha Rao Thota as illegal;
 - to declare that the CoC Meetings dated 01.05.2019 & 27.05.2019 and the appointment of Mr. C. Srinivasan as Resolution Professional as null and void;





- v. to hold that the expenses incurred under CIRP so far, be borne by the Financial Creditor and not to be included in CIRP costs;
- vi. Imposing costs of Rs.1 Crore on the Financial Creditor for abusing the process of law.

II. The Applicant, in its pleadings would contend that:

- 1) Mr. C. Srinivasan, the 2nd respondent/Resolution Professional in pursuance of the orders of this Tribunal, passed in IA No. 461/2019 dated 19.08.2019, on 28.08.2019 conducted the 5th Committee of Creditors for short "CoC", meeting and furnished copy of the details of direct remittance made by Mr. Laxmi Kantha Rao Thota, hereinafter referred to as "Financial Creditor"/the 3rd respondent to the bank account of M/s IRIS Electro Optics Private Limited, hereinafter referred to as "Corporate Debtor" /the 1st respondent, according to which the Resolution Professional arrived at the voting percentage of the shares of Financial Creditor as 36.05% and that of Bank of India at 63.95%. It is alleged that the Resolution Professional has not considered Item Nos. 1, 3, 5 & 10 in the said bank statement, the remaining amounts have not been remitted by the Financial Creditor into the bank account of the Corporate Debtor maintained with Bank of India.



- 2) It is alleged that the RP has wrongly considered the amounts which were lent in the Year 2017 amounting to Rs.40,03,900/- together with 14.2% as a claim of Financial Creditor. The RP also failed to see the agreements dated 30.03.2018 and 31.07.2018 where under the Financial Creditor agreed to grant loan but nowhere it is stated that he already lent Rs.40,03,900/-. The Applicant stated that the action of Financial Creditor is contrary to the terms and conditions of the alleged agreements.
- 3) It is also alleged that the amounts mentioned at Item No.2, 4 of the said amounts are not remitted by the Financial Creditor. Further at Item No.11 to 28 also the amounts were credited to a current account opened with Axis Bank Limited without obtaining 'No Objection Certificate' from the Applicant violating the guidelines issued by RBI. In this connection, the Applicant relied on the Master Circular No. RBI/2014-15/73 DBOD No. CID.BC.57/2.16.003/2014-15, dated 01.07.2014 of RBI. If the said amounts were not considered by RP, the claim of the Financial Creditor would be less than Rs.10 lakhs and the voting share of the Applicant would have gone up to 90%.
- 4) It is stated that the Corporate Debtor has routed Rs.2,39,590/- received from Zen Technologies Limited on 04.05.2018 and Rs.90,568/- received on 30.11.2018 from M/s Bharat Electronics Limited and misappropriated the same. It is also alleged that the RP has given undue voting right to the



Financial Creditor in order to defeat the resolution moved for replacing the RP with Mrs.G.Kalpana as Resolution Professional. RP also failed to consider the debit amounting to Rs.61,374/- and the monies repaid by the Corporate Debtor or by its Directors to Financial Creditor only with an intention to inflate voting share of the Financial Creditor.The Applicant herein expressed its objections to the Minutes of 5th CoC meeting vide letter dated 3.08.2019.

- 5) Hence, it is prayed to treat allotment of 26% voting share to the Financial Creditor as arbitrary, illegal and against the provisions of Section 21(2) of IBC and to consequentially declare meetings conducted on 01.05.2019 and 27.05.2019 and appointment of Mr.C.Srinivasan as Resolution Professional as null and void and to recall orders dated 28.03.2019 admitting the Petition and stay of all further proceedings till investigation is done or alternatively appoint Mrs. G. Kalpana as Resolution Professional.

III. The 2nd respondent/Resolution Professional, in his Counter has pleaded that:

- 1) The Corporate Debtor contended that there is no bar on any Corporate to have any number of bank accounts and is at liberty to receive funds and that the Corporate Debtor



received funds through Axis Bank account which has been reflected in the books of accounts of the Corporate Debtor.

- 2) The Corporate Debtor is only obliged to deposit the sale proceeds of its products and not investments, loans, income tax refunds or other capital receipts into the Petitioner bank. The Corporate Debtor is at absolute liberty to deposit any amount, which is not a realization from the sale of its products, into any bank account of its choice as per condition stipulated in Hypothecation cum Loan Agreement that was entered into the Petitioner / Bank of India on 24th November 2015. There is no provision under any statute that the amounts deposited into another bank of the Corporate Debtor should be disallowed by the RP who is acting under the IBC.
- 3) The agreements entered into were for the loans already sanctioned and disbursed by the Financial Creditor including the interest accrued on the outstanding loan but not for future borrowings/loans.
- 4) The Corporate Debtor deposited an amount of Rs.29,00,000/- lent by the Financial Creditor into the account of the Applicant Bank towards closure of cash credit account. When there was no mention in the bank reconciliation statement, the RP enquired from the Applicant which confirmed orally that it has received the money and the same was credited into the



Date of Order: 14.02.2022

Term Loan Account but till date no reply / confirmation is received from the Bank. Even in the CoC meeting the Financial Creditor could not show the exact credit of Rs.29 lakhs. The amounts were split and credited on 4th October 2017 to the Term Loan account as follows:

Sl. No.	Transaction date	Description	Amount (Rs.)
1.	07-10-2017	Loan Collection from 571130110000029	17,387.14
2.	07-10-2017	Loan Recovery from: 57110SUNCR099	18,45,150.90
3.	07-10-2017	Loan Recovery from: 57110SUNCR099	100.00
4.	07-10-2017	Loan Recovery from: 57110SUNCR099	8,68,900
5.	07-10-2017	Uncharged Interest recovery	1,66,000*
Total			28,97,538.04

*Credited to Cash Credit Account No. 571130110000029

- 5) It is stated that the amount does not actually match with the Demand Draft amount of Rs.29,00,000/- and the reasons for multiple credits have not been explained by the Petitioner to the Corporate Debtor. It is contended that the Applicant has been evading to answer to this Tribunal as to why it slept over the matter of submitting its claim till the CoC was constituted and deprived itself of becoming a Member of the Committee. The Applicant is yet to respond to the mail of the Respondent calling for details of where the deposit of



Demand Draft for Rs.29,00,000/- was credited in the account of the Corporate Debtor.

- 6) The Applicant's reference to RBI Master Circular No. RBI/2014-15/73 DBOD No.CID.BC.57/20.16.003/2014-15, dated 01.07.2014 regarding routing of funds through any bank other than the lender bank or member of consortium without prior permission of the lender amounts to diversion and siphoning of funds does not apply to the Corporate Debtor as it has not been declared as "Wilful Defaulter" by any lending bank.
- 7) The RP refers to the sanction letter Condition No.21 of letter Ref. No.CHPL/15-16/028, dated 18.09.2015 (Attached as Annexure B-4) of the Applicant issued to the Corporate Debtor, which clearly shows that the Applicant was fully aware of the account being maintained by the Corporate Debtor in Axis Bank before the sanction took place.
- 8) With regard to the allegation made by the Applicant that RP has given excessive voting right to the Financial Creditor, Mr.Laxmi Kantha Rao Thota in order to defeat the resolution moved for appointment of Mrs. G. Kalpana as RP, the RP submitted that it is *subjudice* and that it is for the Adjudicating Authority to order the re-computation of voting right in respect of the Financial Creditor, Mr. Laxmi Kantha Rao Thota. The RP denies the allegations that he has not



taken into consideration of monies repaid by the Corporate Debtor or by its Directors to Mr.Laxmi Kantha Rao Thota so as to inflate the share of Mr.Laxmi Kantha Rao Thota.

- 9) It is the case of RP that Applicant failed to submit its claim before the date of constitution of CoC and later submitted defective claim form with no valid GPA in favour of the person to sign the claim form on behalf of another branch of the Applicant where the GPA holder did not carry any authority. As such Bank/Applicant cannot question the resolution passed by the CoC prior to the admission of the petitioner as a member of the CoC.
- 10) The Applicant has not submitted its claim as per the Public Notice given and submitted claim after the constitution of Committee of Creditors and after the notice calling for the first meeting of CoC was issued. The GPA holder who has signed the claim form has no authority to sign the claim form on behalf of the Cherlapally Branch of the Petitioner Bank and hence the claim ought to be rejected ab initio. Further, it is stated that there are many loopholes in the Application. The Authorization letter submitted by the Applicant contains several names instead of only one permitted by IBC. Though only one representative is allowed in the CoC meetings, but the Applicant herein deputed many representatives in every CoC meeting.



11) The Applicant refused for granting extension of date for receiving the EOIs from prospective investors as the initial response did not yield any response. This Tribunal directed the Resolution Professional to convene CoC meeting and take up only agenda of passing a resolution for seeking additional time of 90 days for the CIRP. But the Applicant voted against the resolution compelling the RP to recommend liquidation of the Corporate Debtor.

12) The Applicant concealed the fact of having received some amounts by conducting the sale of guarantor's properties by auction. However, Applicant maintained that it had not received any of these amounts into its accounts, though the amounts were paid solely in respect of the properties offered as securities to the Applicant. It is stated that these amounts ought to have been reduced by the Petitioner on its own from the liability of the Corporate Debtor without having to be asked for detailed clarification.

IV. The 3rd respondent, did not choose to file any counter, however filed written submissions.

V. Before we move further, it is essential to state that this I.A. No.785 of 2019 in CP181/7/HDB/2019 filed by Bank of India/one of the Financial Creditors, has been heard and dismissed by the Bench (none of us were members) of this Tribunal, vide Order dated 27.11.2019. Aggrieved by the order dismissing this petition, the



Applicant, carried the matter in Appeal before the Hon'ble NCLAT, vide Company Appeal (AT) (Insolvency) No.49 of 2020, and the Hon'ble Appellate Tribunal, vide Order dated 22.05.2020 *allowed* the appeal, *set aside* the order passed in this IA No.785 of 2019, dated 27.11.2019 and directed this Adjudicating Authority to accord *fresh consideration to IA No.785/2019*, and *record findings* on:

- (i) the *status* of respondent no.3 as a '*related party*',
- (ii) '*the 3rd respondent fraudulent initiation of Corporate Insolvency Resolution Process, against the Corporate Debtor by filing the present application under Section 7 of the I&B Code*'.

VI. We, therefore, have framed the following Points, for our *fresh consideration*:

- (i) Whether the third respondent is a '*related party*' to the Corporate Debtor herein, as defined under *Sub Section 24* of Section 5 of I&B Code?
- (ii) Whether the Corporate Insolvency Resolution Process (CIRP), initiated by the third respondent against the first respondent, *vide Company Petition No.181/ 7/HDB/2019*, is *fraudulent*?

VII. We have heard Shri.V.Sethu Madhava Rao, Ld. Counsel for the Applicant, Shri. C. Srinivasan, Ld. RP and Shri. V.K.Sajith, Ld. Counsel for the 3rd respondent, perused the record, written submissions and the case Law.



VIII. Point 1:

Whether the third respondent is a 'related party' to the Corporate Debtor herein, as defined under *Sub Section 24* of Section 5 of I&B Code?

- a) Before we enter upon our discussion on the above points, it is pertinent to point out that the petitioner as well as the respondents did not raise the pleas which are extensively argued before us and stated in their written submissions. However, in view of the prayer of the Ld. Counsels for both sides and also the RP, to read the written submissions as part of their petition/counter, as the case may be, the written submissions are treated as part of the petition/counter as the case may be of the parties herein, in the interests of justice.
- b) It is an admitted fact that 3rd respondent, Mr. Laxmi Kantha Rao Thota who was instrumental in *triggering* Corporate Insolvency Resolution Process, for short 'CIRP', against the 1st Respondent/Corporate Debtor M/s. IRIS Electro Optics Pvt Ltd herein, is the *husband* of one Mrs. Archana Thota. The said Mrs.Archana Thota, as per the Master Data maintained by the Registrar of Companies, Telangana State, is one of the Directors of M/s.IRIS Electro Optics Pvt Ltd. (for short 'the Corporate Debtor'), having been so appointed by its Board on 03.10.2017. However, it has been vehemently submitted that the said Mrs.Archana Thota, *has resigned as the director of the 1st respondent company* on 30.11.2018 and that the same has



been accepted by the Managing Director of the 1st Respondent on 01.12.2018.

- c) Therefore, but for the *plea* that Mrs. Archana Thota, has resigned as the director of the 1st respondent company on 30.11.2018 and that the same has been accepted by the MD of the 1st respondent on 01.12.2018, the Financial Creditor, Mr.Laxmi Kantha Rao Thota, unmistakably is a *related party* to the 1st respondent/Corporate Debtor, as such, he is not entitled to any right of representation, participation or voting in the meeting of the Committee of Creditors convened on 01.05.2019, in view of the embargo created by *sub-clause 2* of Section 21 of I&B Code 2016. *Consequently*, the authority to approve the Resolution Plan should fall in to the hands of the *Applicant herein*, being the only other *financial creditor* of the 1st respondent/Corporate Debtor.

- IX. Therefore, it is *imperative* for the 1st respondent to establish that the purported resignation dated 30.11.2018, by Mrs. Archana Thota, as director of the 1st respondent company and its alleged acceptance on 01.12.2018 by the MD of the 1st respondent, is valid and *legally sustainable*, lest, the *status* of the 3rd respondent financial creditor will remain as that of a *related party* to the director of the Corporate Debtor, consequently the disqualification envisaged under sub-section 2 of Section 21 of the I&B Code 2016, will apply to the 3rd respondent and in such an event the very



constitution of CoC by the 2nd respondent in this case becomes a *nullity*.

X.1. Ld. Counsel for the Applicant Bank Shri. V. Sethu Madhav Rao, in his endeavour to buttress his contention that Mrs. Archana Thota, has been continuing as one of the directors of the 1st respondent Corporate Debtor as per the official records and the alleged resignation of Mrs.Archana Thota as director of 1st respondent is false and invented, invited our attention to certain past events which he claimed as indisputable, such as, extending term loan as well as cash credit facilities to the Corporate Debtor since the year 2015 and the Corporate Debtor has authorised Mrs. Archana Thota, as the first signatory along with the then existing authorised signatories i.e., Mr.J.Chandrashekar and Mr. Vikram Kumar Kasturi the other Director of the Company, as second signatory for the purpose of operating the accounts of the Corporate Debtor with the Applicant Bank herein. It is stated that, on 30.06.2016, the Applicant Bank declared the account of the Corporate Debtor as NPA. However, the Corporate Debtor on 30.11.2016 regularised the account, but once again on 07.10.2017 the account slipped in to NPA. It is stated that after several follow ups the accounts was regularised by the Corporate Debtor, but this second regularisation of the account of the Corporate Debtor was short-lived as once again on 31.04.2018 the account turned into NPA. Pursuant thereto, the applicant Bank had invoked the provisions of SARFAESI Act, and got issued a Demand Notice on 12.06.2018 to the Corporate Debtor, besides followed up with the

Possession Notice under Section 13(4) of the SARFAESI Act read with Rule 8(1) and (2) of the Rules.

2. Ld. Counsel further submitted that the Company Petition (IB) No.181/7/HDB/2019 filed by the 3rd respondent Mr.Laxmi Kantha Rao Thota, before this Adjudicating Authority for initiation of the CIRP, against the 1st respondent Corporate Debtor herein, alleging existence of financial debt and default by the 1st respondent, has been admitted by the Tribunal on the very 2nd hearing date itself, as the Corporate Debtor admitted the existence of financial debt in favour of the financial creditor as claimed in the application, besides default in repayment of the same by the Corporate Debtor, and on the recommendation of Mr. Laxmi Kantha Rao Thota, appointed the 2nd respondent as RP.
3. Thus, submitting Ld. Counsel, contended that both parties have proceeded with jet speed and got triggered the CIRP process against the 1st respondent Corporate Debtor with an *ulterior* motive of scuttling the measures initiated by the Applicant Bank here for enforcement of the security interest created in its favour by the 1st respondent herein.
4. Ld. Counsel for the Applicant further submitted that the Applicant Bank, in its claim (Form-C), dated 25.03.2019 raised, *inter alia*, an objection that the financial creditor being the husband of one of the directors, namely Mrs. Archana Thota, the Financial Creditor cannot have right of representation, participation or voting in the CoC, in terms of section 21(2) of the I&B Code, however, the RP

on 03.05.2019 *rejected* the said claim of the Applicant on the ground that the same was not notarised, with an advice to file fresh claim, and in the first meeting dated 01.05.2019, (in absence of Bank of India, one of the important members of the CoC), Mr. C. Srinivasan, who was then an IRP has been confirmed as Resolution Professional (RP), by Mr. Laxmi Kantha Rao Thota, who was then the *sole* CoC Member, and the RP, so appointed has included Mr. Laxmi Kantha Rao Thota in the CoC with representation and voting rights.

5. Ld. Counsel for the Applicant vehemently, contended that the purported resignation of Mrs. Archana Thota is false and stage-managed with the active collusion between the husband and wife, in order to enable the 3rd respondent to claim that he is not a '*related person*' to the Corporate Debtor and thus, invoke the provisions of I&B Code, against the 1st respondent, gain entry into CoC and scuttle the measures initiated by the present applicant Bank of India, against the 1st respondent under the SARFAESI ACT.
6. Mr.C.Srinivasan, the Resolution Professional, appearing on behalf of respondents 1&2, strongly refuted the above submissions, by contending that Mrs. Archana Thota, has tendered her resignation on 30.11.2018, as Director of the 1st respondent company and that the same was duly accepted by the MD of the Corporate Debtor on 01.12.2018, as such Mr. Laxmi Kantha Rao Thota, who initiated CIRP, in terms of Section 7 of I&B Code, against the

1strespondent on 28.03.2019 vide Company Petition (IB) No.181/7/HDB/2019 before this Adjudicating Authority will not come under the definition of related party contained in Section 5(24) of I&B Code, hence there is no bar for Mr.Laxmi Kantha Rao Thota, to be a member of the COC.

XI.(i) Mr. V.K.Sajith, Ld. Counsel for the 3rd respondent, vociferously contended that, the Respondent herein does not fall under the definition of the Related Party as per Section 5 (24) of IBC, 2016 by virtue of the resignation of Mrs. Archana Thota as director from the Board on 30th November, 2018. Ld. Counsel further submitted that it is true that the wife of 3rd Respondent, Mrs. Archana Thota was one of the ex-directors of the Corporate Debtor and that she had tendered her resignation on 30th November 2018 which was duly accepted by the Managing Director of the Corporate Debtor on 1st December 2018 and the same has never been challenged by the Petitioner herein.

(ii) Ld. Counsel further submitted that, in Section 168(2) of the Companies Act, 2013, it is clearly mentions that “The resignation of a director shall take effect from the date on which the notice is received by the company or the date, if any, specified by the director in the notice, whichever is later”. Hence, the Resignation of Mrs.Archana Thota is effective from 30.11.2018. As regards non filing of Form effecting the resignation of Mrs. Archana



Thota, Ld. Counsel submitted that the said compliance issue of the Corporate Debtor company not of the said Mrs.Archana Thota.

(iii) Thus, according to the Ld. Counsel, it is clear that the said Mrs. Archana Thota, is not a director of the Corporate Debtor Company at the time of filing the present Application for initiation of Corporate Insolvency Resolution Process, as such, the 3rd Respondent herein is not covered under the "Related Party" definition which speaks only about the current management and directors of the Corporate Debtor Company. Ld. Counsel also submitted that the said Mrs.Archana Thota is not a Shareholder to the Corporate Debtor Company.

(iv) As regards the plea of fraudulent triggering of Corporate Insolvency Resolution Process under Section 7 of the I&B Code, against the Corporate Debtor is concerned, Ld. Counsel submitted that, the 3rd Respondent herein satisfied the two conditions for admission of the captioned application which are 'Debt' and 'Default'. As per the Loan Agreements attached with the main application, it is clear that the Corporate Debtor Company availed loans from this respondent on the terms and conditions more specifically mentioned in the said agreements, the concept of 'debt' is satisfied. Since the Corporate Debtor failed to comply the terms of the said agreement by defaulting in payment of monthly Interest with respect to the same the 3rd respondent sent letters to CD for repayment. In turn, the Corporate Debtor Company, vide



its letter dated 27.12.2018 sent to this respondent by admitting the default in payment and requested 12 to 14 months' time to pay the entire loan amounts, with that the definition of "Default" is also satisfied.

- (v) Ld. Counsel further submitted that, since the Application filed by this Respondent under Section 7 of IBC, 2016 is complete, this Hon'ble Tribunal, after perusing the application and records submitted along with the Application admitted the said application under Section 7(5)(a) of IBC, 2016 and ordered for admission of the application by appointing the Respondent No.2 herein as Interim Resolution Professional after confirmation of no disciplinary proceedings are pending against the said proposed Interim Resolution Professional i.e., Respondent No.2 herein. Hence the allegation of wrongful initiation will not lie, as without going through the records or merits the Adjudicating Authority will not admit the application. The Applicant herein is questioning the admission of the main company petition saying that, this respondent fraudulently initiated the present proceedings, despite the fact that every Financial Creditor has the right to file an application under I&B Code, against the Corporate Debtor, when the financial debt is not paid and the said right is not confined to Bankers like the Applicant herein.



XII. In our endeavour to find a right answer to the above Point, we wish to, *rely*, apart from the *factual matrix* of this *lis*, the authoritative *rulings on the point in issue*, besides on the definition of 'related party' contained in *sub-section 24 of Section 5 of I&B Code, 2016*, and also on *sub-section 2 of Section 21 of I&B Code*, which are as follows:

(A). "Related party", in relation to a corporate debtor, means,

- a) a director or partner of the corporate debtor or a relative of a director or partner of the corporate debtor;
- b) XXXXX

Explanation. – For the purposes of this clause

- a) "relative", with reference to any person, means anyone who is related to another, in the following manner, namely:
 - (i) Members of a Hindu Undivided Family;
 - (ii) Husband

(B). Sub-Section 2 of Section 21 of I&B Code, which says that,

The Committee of Creditors shall comprise all Financial Creditors of the Corporate Debtor:

Provided that a [financial creditor or the authorised representative of the financial creditor referred to in sub-section (6) or sub-section (6A) or sub-section 24 of Section 5, if it is a related party of the Corporate Debtor,] shall not have any right of representation, participation or voting in a meeting of the Committee of Creditors:

XIII. Thus, it is apparent from the above, that the definition of "related party" is *significantly broad* under the I&B Code. The intention of the legislature in adopting such a broad definition appears to be to capture all kinds of *interrelationships* between the Financial Creditor and the Corporate Debtor, besides to *ensure* that those



entities which are related to the Corporate Debtor can be identified clearly, since their presence can often negatively affect the insolvency process.

XIV. In so far as the *proviso* to Section 21(2) is concerned the same debars a Financial Creditor who is a *related party* of the Corporate Debtor from any right of representation or participation or voting in a meeting of the Committee of Creditors. However, director's *simpliciter*, are not the subject-matter of the proviso to Section 21(2), and only those directors who are related parties of the Corporate Debtor will not have any right of representation, participation, or voting in a meeting of the Committee of Creditors.

XV. 1(a).It may be stated herein that, originally, the first proviso to Section 21(2) read as follows:

“Provided that a related party to whom a corporate debtor owes a financial debt shall not have any right of representation, participation or voting in a meeting of the committee of creditors.”

1(b). The present amended first proviso reads as follows:

“Provided that a financial creditor or the authorised representative of the financial creditor referred to in sub-section (6) or sub-section (6A) or sub-section (5) of section 24, if it is a related party of the corporate debtor, shall not have any right of representation, participation or voting in a meeting of the committee of creditors.”

XVI. The logic underlying the exclusion of related party has been summarised as follows in the 29th Insolvency Law Committee Report, 2020, pp 47-48, para 11.9.

“The Committee was of the view that the disability under the first proviso to Section 21(2) is aimed at removing any conflict of interest within the CoC, to prevent erstwhile promoters and other related parties of the corporate debtor from gaining control of the corporate debtor during the CIRP by virtue of any loan that may have been provided by them.”



XVII. *We shall now deal with the Factual Perspective.*

1. It has been claimed by the Resolution Professional that, Mrs.Archana Thota, on 30.11.2018, resigned as director of the 1st respondent company and the same has been accepted on 01.12.2018 by the MD of the 1st respondent as such the Financial Creditor in this case falls outside the purview of 'related party'. In support of this plea the Ld. RP relied on the letter of resignation and its acceptance letter. However, a bare perusal of the photo copy of the purported resignation letter does not disclose any endorsement/acknowledgement of its submission to the addressee therein. That apart, Mrs. Archana Thota purported acceptance *Board resolution*, is neither whispered nor filed before this Adjudicating Authority. Thus, the solitary *document relied on in support of the plea of the* alleged resignation of Mrs.Archana Thota as director and its so-called acceptance, is the photocopy of the letter of resignation and the letter of its acceptance. Even, this piece of paper relied on by the respondents 1 and 2 herein is falsified upon verification of the Master Data of the Corporate Debtor, of the website of Registrar of Companies, Telangana State, where the registered office of the 1st respondent is situated, which as on the date of this order, shows as follows:





Directors/ Signatory details:

DIN/ PAN	Name	Begin Date	End Date	Surrendered DIN
06828931	ARCHANA THOTA	03/10/2017	--	--

2. The column 'end date' since showing blank it is obvious that Mrs.Archana Thota has been continuing as director of the 1st respondent company till date. If really the resignation letter dated 30.11.2018 claimed to have been submitted by Mrs. Archana Thota is true and genuine and done in normal course, the Corporate Debtor should have *uploaded* the resignation and surrendered the DIN soon after the alleged resignation.The conspicuous and unexplained in-action on the part of the 1strespondent, *coupled* with the fact of pendency of the recovery action against the 1strespondent as on the alleged date of resignation of Mrs.Archana Thota, certainly exposes the falsity in the plea of resignation besides active collusion between the 1st and the 3rd respondents.
3. Therefore, in the wake of authentic public record stated above which emphatically discloses that Mrs. Archana Thota as the director of the 1st respondent Company till date, we refrain ourselves from giving any credence to the photo copy of the so-called resignation letter of Mrs.Archana Thota dated 30.11.2018.



4. Yet, another reason for discarding the alleged letter of resignation by us is, the fact that despite asserting that Mrs. Archana Thota, has resigned as director of the 1st respondent on 30.11.2018, neither Mrs.Archana Thota nor the Corporate Debtor have taken any steps to *revoke* the authority given by the Board to Mrs. Archana Thota, to act as the *first signatory* for operation of the account of the 1st respondent Corporate Debtor, *lying* with the Applicant Bank.
5. Further, we also refer to Rules 15 and 16 of the Companies (Appointment & Qualification of Directors) Rules, 2014, which are reproduced hereunder, in order to ascertain compliance of these provisions by the 1st respondent and Mrs. Archana Thota.

Rule15 –

The company shall within thirty days from the date of receipt of notice of resignation from a director, intimate the Registrar in Form DIR-12 and post the information on its website, if any.

Rule16 –

Where a director resigns from his office, he (may), within a period of 30 days from the date of resignation, forward to the Registrar a copy of his resignation along with reasons for the resignation in Form DIR-11 along with the fee as provided in the Companies (Registration Offices and Fees) Rules, 2014.

6. In the instant case neither Mrs. Archana Thota nor the 1st Respondent Corporate Debtor chose to file Form DIR – 11 and DIR – 12 till date. We are surprised by the submission of the Ld. Counsel for the 3rd respondent that filing of DIR-11, was the lookout/responsibility of the Company and ~~not that of the~~



director who resigned, as the said submission runs contra to Rule 16, *supra*, which says that, where a director resigns from his office, he (may), within a period of 30 days from the date of resignation, forward to the Registrar a copy of his resignation along with reasons for the resignation in Form DIR-11 along with the fee as provided in the Companies (Registration Offices and Fees) Rules, 2014.

7. Thus, yet another glaring inaction on the part of Mrs.Archana Thota in complying the basic statutory requirement, once again reveals the hollowness in the plea of her resignation as director of the 1st respondent.

XVIII. Now, we shall deal with the contentions of the RP/2nd respondent in this regard. The Applicant Bank, in its claim (Form-C), dated 25.03.2019, *inter alia*, raised an objection that being husband of resigned Director Mrs. Archana Thota, Mr.Laxmi Kantha Rao Thota cannot have right of representation, participation or voting in the CoC under section 21(2) of the I&B Code. The RP on 03.05.2019 *rejected* the said claim of the Applicant/Financial Creditor on the ground that the same was not Notarised, however with an advice to file fresh claim.

XIX. Admittedly, on 08.05.2019 the Resolution Professional has addressed an e-mail communication (copy produced at page 24 of IA No.461 of 2019) informing that Mr. Laxmi Kantha Rao Thota and the applicant Bank of India, were allotted voting shares at

42.96% and 57.04% respectively. However, it is interesting to note that the Resolution Professional made a remark *qua* Mrs. Archana Thota, on the claim submitted to him, is as under:

“Related party, hence not qualified to become a Member of CoC.”

XX. Strangely, the Resolution Professional having thus, taken a stand that Mrs. Archana Thota, being a related party to the Financial Creditor *is not qualified to become a Member of CoC*, within a few days, *i.e.*, on 16.05.2019, sent the notice of the second meeting the members of the CoC scheduled on 27.05.2019, to all the *suspended* Board of Directors including Mrs. Archana Thota. Therefore, the Resolution Professional by sending the notice inviting the directors (suspended) of the 1st respondent, for the meeting of the members of COC on 27.05.2019, himself *falsified* his earlier statement that Mrs.Archana Thota, has resigned as the director of the 1st respondent/Corporate Debtor 30.11.2018 itself, as such, she is not a related party to the Financial Creditor Mr. Laxmi Kantha Rao Thota.

XXI. That apart, it is also pertinent to note that when one of the Financial Creditors, namely the Applicant herein, objected for admitting the 3rd respondent into COC, on the ground that 3rd respondent is a ‘related party’ it was incumbent on the part of the Resolution Professional to verify at least the Master data of the 1strespondent in *website of ROC*, in order to ascertain, *prima facie*, the truth or other wise of the plea of resignation by Mrs.Archana



Thota, leave also verification as to *compliance* of the procedure relating to resignation by a director of a Company. Thus, it is clear that the Resolution Professional has discarded due diligence on his part.

XXII. In this context, the *following* observations of Hon'ble Supreme Court of India, *in re*, Phoenix Arc Private Limited vs. Spade Financial Services Limited, MANU/SC/0045/2021, on the scope of misuse and role of RP, needs to be quoted.

“Therefore, in order to prevent any misuse, the Committee recommended that prior to including an assignee of a related party financial creditor within the CoC, the resolution professional should verify that the assignee is not a related party of the corporate debtor. In cases where it may be proved that a related party financial creditor had assigned or transferred its debts to a third party in bad faith or with a fraudulent intent to vitiate the proceedings under the Code, the assignee should be treated akin to a related party financial creditor under the first proviso to Section 21(2).” (Emphasis is ours).

“The true test for determining whether the exclusion in the first proviso to Section 21(2) applies must be formulated in a manner which would advance the object and purpose of the statute and not lead to its provisions being defeated by disingenuous strategies.”

XXIII. Thus, from our discussion as above, it is overwhelmingly, clear that the “theory” of resignation by one of the directors of the 1st respondent company, namely, Mrs. Archana Thota, on 30.11.2018, is a well-designed *falsehood, and a collusive act*, deliberately resorted to enabling the husband of Mrs.Archana Thota, to trigger Corporate Insolvency Resolution Process against the 1st respondent thereby unjustly benefit under the shield of moratorium, in the *back drop* of the recovery measures admittedly initiated by the applicant



Bank, under the SARFAESI Act, against the 1st respondent. The long-standing business as well as the matrimonial relationship between Mr. Laxmi Kantha Rao Thota the 3rd respondent herein and one of the directors of the 1st respondent Mrs. Archana Thota, have also enabled them to indulge in commercial contrivances in order to seek entry into the CoC and control the CoC and thus, unfairly benefit the Corporate Debtor and jeopardise the pending recovery process. The fact that the 1st respondent merely surrendered itself to the demand notice got issued by the 3rd respondent without offering any reply and also conceded the above company petition filed by the 3rd respondent thereby paved way for *super-fast* initiation of CIRP and declaration of moratorium, lack bonafides, and also bear sufficient testimony to their collusive acts and actions.

XXIV. Therefore, in view of our discussion above, taking into consideration the submissions of the Ld. Counsel for both sides, and the case law, *supra*, we firmly hold that the 3rd respondent Financial Creditor Mr. Laxmi Kantha Rao Thota, is a “*related party*”, to the Corporate Debtor herein, within the meaning and definition contained in sub-section 24 of Section 5 of I&B Code. Consequently, it goes without saying that Mr. Laxmi Kantha Rao Thota, is debarred from any right of representation or participation or voting in a meeting of the Committee of Creditors. In that view of the matter, we further hold that the very *constitution* of CoC by the 2nd respondent itself is a *nullity*.

XXV. Hon'ble Supreme Court in Phoenix Arc Private Limited vs Spade Financial Services Limited, MANU/SC/0045/2021, held that,

(a). "The objects and purposes of the Code are best served when the CIRP is driven by external creditors, so as ensure that the CoC is not sabotaged by related parties of the corporate debtor. This is the intent behind the first proviso to Section 21(2) which disqualifies a financial creditor or the authorised representative of the financial creditor under sub-section (6) or sub-section (6A) or sub-section (5) of section 24, if it is a related party of the corporate debtor, from having any right of representation, participation or voting in a meeting of the committee of creditors".

(aa). In the same judgement, the following passage from the report of the Insolvency Law Committee, March 2018, p 23, para 1.25. has been quoted:

"Since the IBC attempts to balance the interests of all stakeholders, such that some stakeholders are not able to benefit at the expense of others, related party financial creditors are disqualified from being represented, participating or voting in the CoC, so as to prevent them from controlling the CoC to unfairly benefit the corporate debtor".

"However, in case where the related party financial creditor divests itself of its shareholding or ceases to become a related party in a business capacity with the sole intention of participating the CoC and sabotage the CIRP, by diluting the vote share of other creditors or otherwise, it would be in keeping with the object and purpose of the first proviso to Section 21(2), to consider the former related party creditor, as one debarred under the first proviso."

XXVI. We are of the firm view that the above ruling squarely applies with all its force to the case on hand, as like in the case above, the respondents 1 and 3 acting *in tandem*, triggered the action under I&B Code, by defeating the statutory provisions in order to gain entry into COC and thus scuttle the recovery measures admittedly initiated by the applicant Bank against the Corporate Debtor herein under the SARFAESI Act.

Point is answered accordingly.



XXVII. Point 2:

Whether the Corporate Insolvency Resolution Process (CIRP), initiated by the third respondent against the first respondent, *vide* Company Petition No No.181/7/ HDB/2019, before this Adjudicating Authority, is fraudulent?

- 1) At the outset, we intend to begin our discussion on this point, by quoting Chief Justice Edward Coke of England, who about three centuries ago observed that, *fraud* avoids all judicial acts, ecclesiastical or temporal.
- 2) In order to decide the point, whether or not the CIRP, initiated by the third respondent against the first respondent is fraudulent, we feel it desirable to quote the relevant provision, as quoted below:

Section 65 of I&B Code.

- i. If, any person initiates the insolvency resolution process or liquidation proceedings *fraudulently* or with malicious intent for any purpose other than for the resolution of insolvency, or liquidation, as the case may be, the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees, but may extend to one crore rupees.
- ii. If, any person initiates voluntary liquidation proceedings with the intent to defraud any person, the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees but may extend to one crore rupees."



3) Sub-section (11) of Section 5 of I&B Code, defines "initiation date" i.e., the date of initiation of Corporate Insolvency Resolution Process and reads as follows:

"Initiation date" means the date on which a financial creditor, corporate applicant or operational creditor, as the case may be, makes an application to the Adjudicating Authority for initiating corporate insolvency resolution process;"

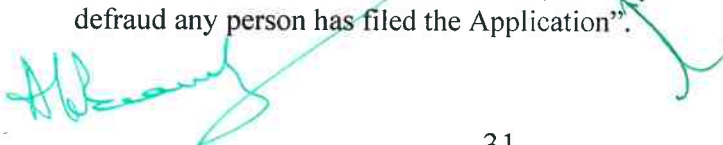
XXVIII. Therefore, sub-section (11) of Section 5 when read with Section 65 (1) it is clear that if a 'Financial Creditor', or 'Corporate Applicant' or 'Operational Creditor' makes an application to the Adjudicating Authority for initiating Corporate Insolvency Resolution Process or liquidation proceedings fraudulently or with malicious intent for any purpose other than for the resolution of insolvency, or liquidation, the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees, but may extend to one crore rupees in terms of sub-section (1) of Section 65.

XXIX. Hon'ble Supreme Court of India, in Swiss Ribbons (P) Ltd. v. Union of India, (2019) 4 SCC 17, held that,

"What is also of relevance is that in order to protect the corporate debtor from being dragged into the corporate insolvency resolution process *mala fide*, the Code prescribes penalties".

XXX. In Amit Katyal v. Meera Ahuja, 2020 SCC Online748, Hon'ble NCLAT, held that,

"No penalty can be saddled either under Section 65(1) or (2) of the Code without recording an opinion that a *prima facie* case is established to suggest that a person 'fraudulently' or with malicious intent for the purpose other than the resolution of Insolvency or Liquidation or with an intent to defraud any person has filed the Application".



XXXI. Thus, formation of "*prima facie*" opinion, by the Adjudicating Authority on the basis of the record produced before Adjudicating Authority, as to whether or not the Financial Creditor/Corporate Applicant or the Operational Creditor has triggered corporate insolvency resolution process, "*fraudulently*" or "*with malicious intent*", for the purpose other than the resolution of the insolvency or liquidation or that voluntary liquidation proceedings has been filed with the intent to *defraud* any personis, *sine qua non*, for imposition of penalty under Section 65 of I&B Code.

XXXII. Before, we proceed further on the above legal frame, we wish to state that, under our discussion on Point 1 above, *namely*, whether the third respondent is a 'related party' to the Corporate Debtor herein, as defined under Sub Section 24 of Section 5 of I&B Code; upon careful consideration of the *factual matrix* and the submissions of both sides, we came to a firm conclusion that the "theory" of resignation propounded by one of the directors of the 1st respondent company, namely, Mrs. Archana Thota, is a well-designed *falsehood*, *besides collusive*, deliberately resorted to, in the *back drop* of the recovery measures admittedly initiated by the applicant Bank, under the SARFAESI Act, against the 1st respondent company in which the wife of the Financial Creditor /3rd respondent Mrs. Archana Thota, is one of the directors. We also expressed that the long-standing business as well as the *matrimonial* relationship between the 3rd respondent and Mrs. Archana Thota, have enabled them to indulge in commercial



contrivances in order to seek entry into the CoC, and thus scuttle the pending recovery process. So much so, it would be an unnecessary exercise of repetition if, we once again deal and discuss with the said pleadings for the purpose of this point, *suffice if, we confine to the other additional facts and circumstances*, if any, pleaded which may help us in forming our, *prima facie*, opinion, on *whether or not* the triggering of the CIRP by the 3rd respondent/financial creditor against the corporate debtor is *fraudulent*.

XXXIII. The record produced by the RP along with the counter, discloses that the 1st respondent Corporate Debtor has been availing various credit facilities from the petitioner bank. The plea is that one of the directors of the 1st respondent Mrs. Archana Thota, who became the director on 03/10/2017 has resigned on 30/11/2018, has been held as false and concocted in our discussion supra.

XXXIV. Be that as it may, indisputably, various loans that were availed by the 1st respondent from the applicant bank were between 2015 and 30th March 2018 when Mrs. Archana Thota, was the director of the 1st respondent. The account of the Corporate Debtor has been classified as NPA, for the first time on 30.06.2016 and lastly on 31.03.2017. Demand Notice under Section 13(2) of SARFAESI Act, has been issued on 12.06.2018 to the 1st respondent by the applicant bank, and on failure to comply the terms of the demand notice, measures under section 13(4) of the

SARFAESI Act, were initiated by September 2018 against the 1st respondent. This undeniable fact situation though does not operate as a bar for the 3rd respondent to pursue remedies for recovery of his alleged debt from the 1st respondent, since the advantage of moratorium envisaged under Section 14 of I&B Code, can be gained only when the provisions of I&B Code, in terms of sections 7 or 9 are invoked, the third respondent triggered the CIRP, even though the same *is not a remedy for recovery of any debt*, by bringing the theory of resignation by Mrs.Archana Thota as the director.

XXXV. This designed action, clearly exposes the “real intention” of the 3rd respondent behind filing the Company Petition is not *resolution of insolvency*, but to take shelter/undue advantage under the shield of ‘moratorium’, and to gain entry into COC, jeopardize/*dodge* the lawful measures initiated by the applicant bank, for recovery of *public money* lent to the 1st respondent where his wife Mrs. Archana Thota is a director.

XXXVI. Hon’ble Supreme Court of India, in *S.P Chengalvaraya Naidu vs Jagannath*, AIR 1994 P853, wherein, His Lordship, Hon’ble Justice Kuldip Singh, categorically held that,

“The courts of law are meant for imparting justice between the parties. One who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the court is being abused. Property-grabbers, tax-evaders, bank-loan-dodgers and other unscrupulous persons from all walks of life find the court-process a convenient lever to retain the illegal-gains indefinitely. We have no hesitation to say that a person, who's

case is based on falsehood, has no right to approach the court. He can be summarily thrown out at any stage of the litigation".(Emphasis is ours).

This ruling in our view is applicable to the case on hand with all its force, as one of the intentions of the 3rd respondent has been found to be to facilitate the 1st respondent to dodge the bank loan, it availed from the petitioner bank and *defaulted*.

XXXVII. It may also be pertinent to state herein, that the Resolution Professional though ought to have ensured that Bank of India, an important Financial Creditor is given due weightage in the CoC. By adopting a biased approach, the Resolution Professional got reduced the Bank's legitimate voting share below 66% so that the petitioner cannot have its firm say in CoC meetings. The Resolution Professional also denied opportunity to the Bank by returning the claim submitted by the Bank on technical grounds. Having known that Bank of India is a Public Sector Undertaking (PSU), which is also a Financial Creditor in the fray, the Resolution Professional had deliberately ensured that the Bank is not available for voting in the first CoC Meeting and thereby got himself confirmed as RP. Thereafter, he started deciding voting percentage of the CoC Members by applying yardsticks which are unheard of. This clearly strengthens the allegation that the Resolution Professional is acting at the behest of Mr. Laxmi Kantha Rao Thota, the Applicant in the main Company Petition. The Resolution Professional ought to have appreciated/focussed on the fact that Mr. Laxmi Kantha Rao Thota, the Applicant in



the main Company Petition is the husband of one of the Directors of the Corporate Debtor and thus, he is not eligible to be in the CoC as a 'related party'. Instead, he knowingly admitted Mr. Laxmi Kantha Rao Thota.

XXXVIII. Further, it was also brought to the notice of this Adjudicating Authority, by the Learned Counsel for the Bank of India, that on 06.08.2020 the bank has lodged a complaint against the Resolution Professional before IBBI alleging, *inter alia*, that the Resolution Professional has been conducting CIRP in a partisan manner in collusion with the Corporate Debtor as well as Mr. Laxmi Kantha Rao Thota and that the same is pending with IBBI.

XXXIX. Thus, *prima facie*, we are also of the view that the role of Resolution Professional in the case on hand is tainted with the allegations of *bias* towards the 1st and 3rd respondents, besides proven violation of the mandatory provisions of the I&B Code.

XL. The Legislature in our view, keeping the instances of this nature, has incorporated Section 65 of I&B Code, enabling the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees, but may extend to one crore rupees on any person who initiates the insolvency resolution process or liquidation proceedings *fraudulently* or with malicious intent for any purpose other than for the resolution of insolvency, or liquidation, as the case may be.



XLI.(i) Therefore, in view of our discussion afore stated, on careful consideration of the submissions made by the Ld. Counsel for the parties and also the Resolution Professional, on perusal of the record, written submission and the case law, in unequivocal terms we, hereby hold that this matter is one of the classic cases of fraudulent and also malicious initiation of CIRP, against the Corporate Debtor, for *the purpose other than for the resolution of insolvency, to wit*, to gain entry into COC, and *jeopardize/dodge*, the lawful measures initiated by the applicant bank under the SARFAESI Act, for recovery of public *money* admittedly lent to the corporate debtor/ 1st respondent Company, in which the wife of the Financial Creditor herein, Mrs.Archana Thota, is one of the directors.

(ii) Therefore, taking into consideration on the entire facts of the case, which perspicuously reflect the disingenuous conduct on the part of the Applicant, and one of the directors of the 1st respondent, Mrs. Archana Thoa, we are therefore of the view that we should not allow the statutory provisions of I&B Code, be defeated by a related party of a Corporate Debtor creating commercial contrivances which have the effect of *denuding* its status as a related party, by the time that the CIRP has been initiated. Thus, we are *thoroughly satisfied*, that this is a fit case to invoke section 65 of I&B Code, against the 3rd respondent Mr. Laxmi Kantha Rao Thota, and to impose the *maximum* penalty on the 3rd respondent for initiating the insolvency resolution process



fraudulently and with *malicious intent* for the purpose of stated, *supra*, and not for resolution of insolvency.

The point is answered accordingly.

XLII. Therefore, in view of our findings at Points 1 & 2 above, we allow this application.

- i. In the result, IA 785/2019 is allowed, as a *sequel*, the Company Petition No. CP(IB)181/7/HDB/2019 filed by the 3rd respondent Mr. Laxmi Kantha Rao Thota, on the file of this Tribunal, stands dismissed.
- ii. The 1st respondent Corporate Debtor is hereby freed from the rigour of the moratorium ordered by this Tribunal.
- iii. We, further hereby, order that the 3rd respondent Mr.Laxmi Kantha Rao Thota, who is the Petitioner in Company Petition No.CP(IB)181/7/HDB/2019 on the file of this Tribunal, to pay the penalty of Rs.1,00,00,000/- (Rupees One Crore only) within 30 days from the date of this Order through online payment in Bharatkosh.gov.in (Non-Tax Receipt Platform - NTRP).


VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)


Dr.N.V.RAMA KRISHNA BADARINATH
MEMBER (JUDICIAL)

Karim / Syamala