

**NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH
(through web-based video conferencing platform)**

**IA Nos. 270/2020 & 271/2020
In
CP (IB) No. 122/Chd/HP/2019
(Admitted Matter)**

**Under Section 22 of the Insolvency
and Bankruptcy Code, 2016**

In the matter of:-

Central Bank of India ...Financial Creditor

Versus

M/s Luni Power Company Pvt. Ltd.Corporate Debtor

And in the matter of IA Nos. 270/2020 & 271/2020:-

Central Bank of India ...Applicant-Financial Creditor

Versus

M/s Luni Power Company Pvt. Ltd.Respondent-Corporate Debtor

IA Nos. 270/2020 & 271/2020
In
CP (IB) No. 122/Chd/HP/2019
(Admitted Matter)

Present through Video Conferencing:

Present: Mr. Rabinder Singh Bhatia, Advocate for the applicant.

IA No. 270/2020

IA No. 270/2020 is filed by the applicant seeking urgent hearing of IA No. 271/2020. In the circumstances, IA No. 270/2020 is allowed and accordingly, IA No. 271/2020 is taken up for hearing.

2. Accordingly, IA No. 270/2020 is disposed of.

IA No. 271/2020

3. The sole COC Member-Central Bank of India filed the instant IA under Section 22(3)(b) of IBC seeking appointment of Mr. Sachin Gopal Jathar as the Resolution Professional by replacing Mr. Sanjay Kumar Agarwal, the IRP. It is submitted that the CIRP Proceedings were initiated against the corporate debtor-Luni Power Company Pvt. Ltd. on 23.12.2019 when CP (IB) No. 122/Chd/HP/2019 was admitted by this Tribunal. On the same day, Mr. Sanjay Kumar Agarwal was appointed as IRP. The COC in its first meeting held on 21.01.2020 resolved to confirm Mr. Sanjay Kumar Agarwal as the Resolution Professional to complete the CIRP Proceedings, however, before an appropriate application in this regard was filed, the said Mr. Sanjay Kumar

Aggarwal was arrested by CBI on 11.02.2020. It is further submitted that thereafter, he was released on bail. It is further stated that thereafter, the sole COC Member, the Central Bank of India itself convened the meeting of COC on 18.02.2020 and resolved to appoint Mr. Sachin Gopal Jathar as the RP in place of Shri Sanjay Kumar Aggarwal. Form AA i.e. written consent to act as Resolution Professional submitted by Mr. Sachin Gopal Jathar was enclosed to the IA as Annexure A-5. The resolution of the COC dated 18.02.2020 is also enclosed as Annexure 6.

4. Under sub section (4) of Section 9 of the Code, the Adjudicating Authority has to forward the name of Resolution Professional proposed under clause (b) of sub section (3) to the Insolvency and Bankruptcy Board of India for its confirmation and shall make such appointment after the confirmation of Board. IBBI has already sent letter No. IBBI/NCLT/2017-18/17/160/200, dated 03.11.2017 to the effect that there is a database already prepared in respect of all the registered resolution professional, which discloses whether any disciplinary proceeding is pending against an Insolvency Professional. So, in case, there is nothing against the person proposed, the Adjudicating Authority may appoint such person instead of seeking the confirmation from the IBBI. The Law Research Associate attached to this Tribunal has taken the print out

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from the database of Insolvency and Bankruptcy of India and the present status in respect of Mr. Sachin Gopal Jathar, IP is that there is nothing adverse on record.

5. In view of the foregoing facts, we allow the instant application and appoint Mr. Sachin Gopal Jathar, having registration No. IBBI/IPA-002/IP-N00640/2018-2019/11968, Address: Mousumi Apartment, Ground Floor, 15B, Ballygunge Circular Road Kolkata – 700019, West Bengal as the Resolution Professional by replacing Mr. Sanjay Kumar Agarwal, the Interim Resolution Professional for continuing with the insolvency resolution process in respect of the corporate debtor. It is directed that:

- i) Mr. Sanjay Kumar Agarwal, the Interim Resolution Professional shall hand over the entire records and the assets of the company which have been taken over by him in the course of the corporate insolvency resolution process to the Resolution Professional forthwith;
- ii) Mr. Sachin Gopal Jathar, Resolution Professional shall take over the charge of the aforesaid records and the assets and perform his duties as required under the Code and the Regulations;

iii) Mr. Sachin Gopal Jathar, Resolution Professional is directed to send regular progress reports to this Tribunal every fortnight.

6. Accordingly, IA No. 271/2020 stands disposed of.

Copy of this order be supplied to the learned counsel for the applicant, previously appointed IRP and newly appointed IRP by the Registry.

Sd/-

(Raghu Nayyar)
Member (Technical)

(Ajay Kumar Vatsavayi)
Member (Judicial)

August 10, 2020
Yashpal