

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO:II
SPECIAL BENCH(Video Conference)**

**CORAM: HON'BLE MADAN BHALCHANDRA GOSAVI – MEMBER JUDICIAL
HON'BLE DR.BINOD KUMAR SINHA-MEMBER TECHNICAL**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 07.05.2021 AT 10:30 AM THROUGH VIDEO CONFERENCE

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No.606&697/2020 in CP(IB) No.43/7/HDB/2018
NAME OF THE COMPANY	Leo Meridian Infrastructure Projects & Hotels Ltd
NAME OF THE PETITIONER(S)	Andhra Bank
NAME OF THE RESPONDENT(S)	Leo Meridian Infrastructure Projects & Hotels Ltd
UNDER SECTION	7 of IBC

Counsel for Petitioner(s):

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

Counsel for Respondent(s):

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

ORDER

The case is fixed for pronouncement of order.

IA No.606&697/2020 is disposed vide separate order.


MEMBER TECHNICAL


MEMBER JUDICIAL

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

**IA No.606/2020
In
CP(IB) No.43/7/HDB/2018**

**In the matter of:-
M/s. LEO MERIDIAN INFRASTRUCUTRE PROJECTS & HOTELS
LIMITED**

Between:

1. Mr. N.V. Rama Raju
R/o Plot No.75, MLA & MP Colony,
Road No.10-C, Jubilee Hills,
Hyderabad – 500033.
 2. Ms. N. Indira
R/o Plot No.75, MLA & MP Colony,
Road No.10-C, Jubilee Hills,
Hyderabad – 500033.
 3. M/s. Jalavihar Entertainment Private Limited
Regd. Office: 22/9, Necklace Road,
Hyderabad – 500 063 Represented by its
Managing Director, N.V. Rama Raju, R/o Hyderabad
 4. M/s North East Infrastructure Private Limited
Regd. Office: 55-14-87, APSEB Colony,
Seethammadhara, Visakhapatnam – 530013.
Andhra Pradesh, Represented by its authorized representative
Mr. Vijay Aditya Nadimpalli, R/o Hyderabad.
- ...Applicants
1. Mr. Rajkumar Ralhan, Resolution Professional of
Leo Meridian Infrastructure Projects and Hotels Limited
Flat No.801, Towers 01, Kalypso Court,
Jaypee Greens Wish Town,
Sector 128, Noida, Uttar Pradesh – 201 304.
 2. The Committee of Creditors of Leo Meridian Infrastructure
Projects and Hotels Limited represented by Resolution Professional
Flat No.801, Towers 01, Kalypso Court,

Rajkumar

✓

Jaypee Greens Wish Town,
Sector 128, Noida, Uttar Pradesh – 201 304.

...Respondents

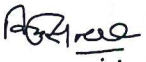
IA No. 697/2020
In
IA No. 606/2020
In
CP(IB) No.43/7/HDB/2018

Between:

D.V. Satyanarayana
R/o. B-1, RCD Hospital,
Pedda Waltair, Vishakhapatnam
Rep by. SPA Holder
Pingle Vasudeva Reddy,
R/o. Jyothi Venkatadri Apartments,
Plot No. 1245, Road No. 62,
Jubilee Hills, Hyderabad.
...Applicant

AND

1. Mr. N.V. Rama Raju
R/o Plot No.75, MLA & MP Colony,
Road No.10-C, Jubilee Hills,
Hyderabad – 500033.
2. Ms. N. Indira
R/o Plot No.75, MLA & MP Colony,
Road No.10-C, Jubilee Hills,
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Regd. Office: 55-14-87, APSEB Colony,
Seethammadhara, Visakhapatnam – 530013.
Andhra Pradesh, Represented by its authorized representative
Mr. Vijay Aditya Nadimpalli, R/o Hyderabad.





5. Mr. Rajkumar Ralhan, Resolution Professional of
Leo Meridian Infrastructure Projects and Hotels Limited
Flat No.801, Towers 01, Kalypso Court,
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Flat No.801, Towers 01, Kalypso Court,
Jaypee Greens Wish Town,
Sector 128, Noida, Uttar Pradesh – 201 304.

...Respondents

Date of order: 07.05.2021

**Coram: Hon'ble Shri Madan B. Gosavi, Member Judicial.
Dr. Binod Kumar Sinha, Member Technical.**

Parties/Counsel(s) present:

For the Applicant in IA No. 606/2020 & R1-R4 in IA No. 697/2020:
Mr. G. Sethu Rama Rao, Advocate.

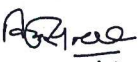
For the Applicant in IA No. 697/2020:
Mr. E. Ajay Reddy along with Ms. E. Anisha Reddy, Advocate.


For the Resolution Professional:
Mr. Krishna C.V. Grandhi, Advocate.

For the Committee of Creditors:
Mr. V. Sethu Madhav Rao, Advocate.

[Per Bench]


ORDER





1. This application is filed U/s 60(5) of IBC by the applicant for directing the CoC not to consider any Resolution Plan other than the plan submitted by the applicant herein.
2. The reason for seeking such a direction is that the Resolution Plan as submitted by them was considered by the CoC and then the applicant was declared the H1 Bidder.
3. We heard Learned counsel for the Applicant, Learned counsel for the RP and Learned senior counsel for the CoC.
4. Short question for our consideration in this application is whether the RP/CoC can proceed to consider other Resolution Plans, though the Applicant is declared to be H1 bidder and whether such act of the RP/CoC is in contravention of provisions of Regulation 39 of IBBI (Insolvency Resolution Process) for Corporate Persons Regulations, 2016. We have also to record our findings on whether the amended provisions of sub-Regulation (3) of Regulation 39 is to be read prospectively or retrospectively?
5. Before recording our finding whether the amended provision under Regulation 39(3) is to be read retrospectively or prospectively, we note at the outset that one of the objects of the IBC is maximization of the value of the assets of the Corporate Debtor and resolution of insolvency in time bound manner.

Agree



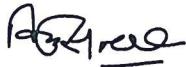
6. The CIRP being competitive process for all prospective resolution applicants, the RP and CoC are duty bound to consider all plans they received till last date.
7. It is not in dispute that the RP/CoC in this case have received the Resolution plans of some of the applicants during the CIRP process. However, the applicant was declared H1 bidder. But the CoC have not yet approved their Resolution Plan.
8. Whether the amended provision of Regulation 39(3) IBC is to be read retrospectively or prospectively is the point now concluded by Hon' ble Supreme Court in case of M/s Jaypee Kensington Boulevard Apartments Welfare Association & Others Vs. NBCC (India) Limited & Others in Civil Appeal No.3395 of 2020. It is held that,

"83.1. Moreover, as noticed, the legislature itself has made the position clear by way of a later amendment with effect from 07.08.2020, by specifically making stipulations for simultaneous voting over more than one resolution plan by the CoC, particularly with amendment of sub-regulation (3) of Regulation 39 of CIRP Regulations and insertion of sub-regulations (3A) and (3B) thereto. Such an amendment could only be visualised as clarificatory in nature; and, in any case, even before amendment, there had

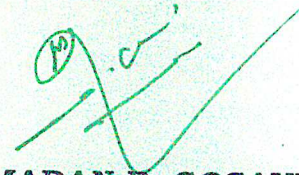
Ag. Rao

not been any prohibition in putting two or more conforming resolution plans to vote simultaneously."

9. In view of the above, we hold that the application is not maintainable. The CoC in this case are free to consider all the Resolution Plans submitted for their consideration by the RP.
10. The Application bearing IA No. 606/2020 is not maintainable and hence stands rejected and disposed of.
11. In view of the above, Application bearing IA No. 697/2020, filed for impleading by another proposed Resolution Applicant in IA No. 606/2020 also stands disposed.
12. No order as to costs.



DR. BINOD KUMAR SINHA
MEMBER TECHNICAL



MADAN B. GOSAVI
MEMBER JUDICIAL