

IA/82/KOB/2020

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH, KERALA**

**IA/82/KOB/2020
In
TIBA/19/KOB/2019
(Under Section 22 of the IBC 2016)**

Order delivered on: 30.07.2020

Coram:

Hon'ble Mr. Ashok Kumar Borah, Member (Judicial)

In the matter of:

Applicant/Financial Creditor

The South Indian Bank Limited,
Registered Office-SIB House,
TB Road, Thrissur,
Kerala-68001.

Vs.

Respondent/Corporate Debtor

M/s Atlas Gold Townships (India) Private Limited
XI/305H, Near Federal Bank
Opp. Cochin International Airport,
Vappalassery, Nedumbassery,
Angamally-683572, Kerala, India.

Appearance:

For applicant/Financial Creditor

... Shri Sunil Shanker, Advocate

This is an Interlocutory Application filed by the South Indian Bank Limited, Thrissur under Section 22 of the Insolvency and Bankruptcy Code, 2016 for appointment of the proposed Resolution Professional. It

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is stated that the applicant herein South Indian Bank is the lead COC member of M/s Atlas Gold Townships (India) Private Limited (Corporate Debtor) and representing the Committee of Creditors of the Corporate Debtors. The NCLT vide order dated 19.11.2019 admitted the TIBA/19/KOB/2019 and appointed Shri Maniavannan, Insolvency Professional as Interim Resolution Professional. The promoters of the CD approached the Hon'ble High Court of Kerala filing WP(C) No. 32485 of 2019 challenging the CIRP initiated against the CD in which it was directed by the Hon'ble High Court that the promoters have to approach the Hon'ble NCLAT for further proceedings vide its order dated 29.11.2019. Pursuant to that, the promoters approached the Hon'ble NCLAT filing Company Appeal (AT) Insolvency No.1509 of 2019, which application was dismissed by the NCLAT vide order dated 22.1.2020. Thereafter, public announcement in respect of initiation of CIRP in respect of the Atlas Gold Township (India (P) Limited was made calling for submissions of claims under Section 15 of the Code. Pursuant to Section 21(6A) (b) of the IBC read with Regulation 16A(1) of the IBC (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 the IRP identified that the CD has more than ten financial creditors in class ie., Home Buyers in the instant case and offered a choice of three insolvency professionals through said public announcement to act as their authorised representative for CIR Process. The home buyers submitted their claims

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in Form CA under Sub Regulation (1) of Regulation 12 unanimously indicating the name of Insolvency Professional Mr.Kizhakkekara Kuriakose Jose, as the authorised representative for and on behalf of them. First meeting of the CoC held on 9.3.2020 wherein it was unanimously resolved by the CoC to propose the appointment of Mr.Jasin Jose, Insolvency Professional and holder of IP Reg.No.IBBI/IPA-001/IP-P00695/2017-2018/11225 as Resolution Professional as per Section 22(3)(b) of the Insolvency and Bankruptcy Code, 2016 and the CoC has authorised the lead CoC Member ie., the applicant herein to file an application before the adjudicating authority for replacement of the present IRP by appointing Mr. Jasin Jose. The members representing 100.00% of the voting rights presented and assented to the appointment of Shri Jasin Jose as the IRP and the decision on the item was unanimously approved by the CoC. In view of the above, the applicant prays for the following reliefs:

- (a) This Tribunal may be pleased to appoint Mr.Jasin Jose, Insolvency Professional holder of IP Reg.No.IBBI/IPA-001/IP-P00695/2017-2018/11225 having his office at Ponmattam Madassery House, Mookkannor PO, Ernakulam, Kerala-683577 as Resolution Professional of the Corporate Debtor in view of the same having

been approved by the CoC of the Corporate Debtor at meeting on 7.3.2019; and

(b) To pass any such other orders/as this Hon'ble Tribunal may deem fit in the interest of justice and equity.

2. I have heard the learned counsel Shri Sunil Shanker who appeared through Video Conferencing and had gone through the orders of this Tribunal dated 19.11.2019, the Hon'ble High Court order dated 29.11.2019 in WP(C) No. 32485 of 2019, the orders of the Hon'ble NCLAT dated 22.1.2020 in Company Appeal (AT) Insolvency No.1509 of 2019, the public announcements made in the newspapers, the minutes of the first meeting of the CoC and the Consent Letter in Form AA given by the Resolution Professional Shri Jasin Jose. In the CoC meeting held on 9.3.2020 as item No.7 it was resolved that Mr.Jasin Jose, Insolvency Professional be and is hereby appointed as Resolution Professional to complete the Corporate Insolvency Resolution Process and the fee of the Resolution Professional shall be mutually decided by the CoC and the Resolution Professional in accordance with the provisions of Section 22(3)(b) of the Insolvency and Bankruptcy Code, 2016. Mr. Jasin Jose has submitted written consent to act as Resolution Professional in Form AA stating that (i) he is registered with the Board as Insolvency Professional, (ii) he is not subject to any disciplinary proceedings initiated

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by the Board of the Insolvency professional Agency (iii) he does not suffer from any disability to act as a Resolution Professional profession (iv) he is eligible to be appointed as the Resolution Professional of the Corporate Debtor under Regulation 3 and other applicable provisions of the Code and Resolutions (v) he shall make the disclosures in accordance with the Code of Conduct for insolvency professional as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations 2017 and that (vi) he is Resolution Professional of two cases of Corporate Debtors/Individuals. The CoC was conducted in the Chairmanship of this Tribunal appointed Interim Resolution Professional Shri J.Manivannan and that he has no objection in the appointment of Shri Jasin Jose as Resolution Professional in this matter replacing him.

3. In view of the facts and circumstances stated above, I allow the I.A. No. 82/KOB/2020 and pass the following order:

(a) I hereby appoint *Mr.Jasin Jose, Insolvency Professional holder of IP Reg.No.IBBI/IPA-001/IP-P00695/2017-2018/11225 having his office at Ponmattam Madassery House, Mookkannor PO, Ernakulam, Kerala-683577* as Resolution Professional of the Corporate Debtor. The Resolution Professional is directed to meticulously adhere to the Rules and Regulations issued by IBBI in this regard from time to time.

(b) The present IRP Shri Manivannan is directed to take reasonable steps till the new Resolution Professional take over his duties and responsibilities. He is also directed to hand over all documents of the Corporate Debtor to the new Resolution Professional.

(C) The CoC is also directed to pay the professional fee of the IRP Mr. Manivannan in proportion to the fee paid during IRP period and expenses of the IRP till the new RP takes over charge.

(d) The fee of the newly appointed Resolution Professional shall be mutually decided by the CoC and the Resolution Professional in accordance with the provisions of Section 22(3)(b) of the Insolvency and Bankruptcy Code, 2016.

Dated this the 30th day of July, 2020

Sd/-
(Ashok Kumar Borah)
Member (Judicial)