

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
SPECIAL BENCH-II, CHENNAI**

IA (IBC)/872(CHE)/2022

in

IBA/660/2019

**In the Matter of M/s Automotive Coaches & Components
Ltd**

CORRIGENDUM

In exercise of powers under Rule 154 of National Company Law Tribunal Rules, 2016, the daily order dated 22.08.2022 is rectified as under;

1. **At Para 6, 10, 11 and 12 the word "Resolution Professional" shall be read as "Liquidator".**

-Sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-

BACHU VENKAT BALARAM DAS
MEMBER (JUDICIAL)

DATED AT CHENNAI ON THIS 13TH DAY OF SEPTEMBER 2022



NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH – II
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH,
CHENNAI NATIONAL COMPANY LAW TRIBUNAL HELD ON 22-08-2022 AT
3.30 P.M. THROUGH VIDEO CONFERENCING:

PRESENT: SHRI BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)
SHRI. SAMEER KAKAR, MEMBER (TECHNICAL)

APPLICATION NUMBER : IA(IBC)/872(CHE)/2022
PETITION NUMBER : IBA/660/2019
NAME OF THE PETITIONER : Bank Of Maharashtra
NAME OF THE RESPONDENT(S) : M/s Automotive Coaches & Components Ltd
UNDER SECTION : Sec 60(5) of IBC, 2016

ORDER

Ld. Counsel, Latha Babu appeared on behalf of the Applicant.

The present application is filed by Bank of Maharashtra, the Sole Financial Creditor of Automotive Coaches and Components Limited, seeking prayer as follows:

- a) Allow this Present Application
- b) Pass necessary order(s) to replace Mr. Subrata Maity and appoint Mr. Avil Jerome Menezes having registration number IBBI/IPA-001/IP-P00017/2016-2017/10041 as the Liquidator of the Corporate Debtor; and
- c) Pass any further order(s)/direction(s) as may be deem fit by this Hon'ble Tribunal.

2. The Corporate Debtor viz., Automotive Coaches and Components Limited was admitted into Corporate Insolvency Resolution Process ("CIRP) vide order dated 03.09.2019 by this Adjudication Authority upon an application filed by the Applicant/Financial Creditor under Section 7 of the Insolvency and Bankruptcy Code, 2016 (*hereinafter referred to as IBC, 2016*) and one Mr. Maduri Sudaram Sankar having registration number: IBBI/IPA-001/IP-P00770/2017-2018/11315 was appointed as the Interim resolution Professional. Thereafter, upon an application for appointment of Resolution Professional filed before this Adjudication Authority by the



Committee of Creditors, one *Mr. Subrata M. Maity* having registration number: *1BBI/IPA-001/IP-POO884/2017-2018/11481* was appointed as the Resolution professional vide order dated 27.11.2019.

3. The Learned Counsel for the Applicant had submitted that the Committee of Creditors in its 11th CoC meeting had resolved to initiate Liquidation of the Corporate Debtor. Consequently, an application in I.A. No. 848 of 2021, for approval of Liquidation under section 33, IBC, 2016 was filed and the same was ordered by appointing the erstwhile Resolution Professional as the Liquidator vide order dated 18.03.2022 .

4. In the meantime, it is submitted that on 09.05.2022, an ex-parte interim order was passed against Mr. Subrata Monindranath Maity by the Insolvency and Bankruptcy Board of India (herein after referred to as 'IBBI'). The interim order passed by the IBBI in IBBI/DC/95(Interim)/2022 is extracted hereunder:

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

No. IBBI/DC/95(Interim)-2022
9th May, 2022

Interim Order

(Under sub-regulation 4 of regulation 9 of the Insolvency and Bankruptcy Board of India (Inspection and Investigation) Regulations, 2017)

1. The Insolvency and Bankruptcy Board of India (Board) has registered Mr. Subrata Monindranath Maity R/o B 202, Jai Gurudeo Complex, Plot 16-19 and 21-25, Sector 17, Kamothe, Navi Mumbai, Maharashtra -410209 as an Insolvency Professional (IP) with Registration No. IBBI/IPA-001/IP-P00884/2017-2018/11481 on 29th January, 2018 and who is a Professional Member of the Indian Institute of Insolvency Professionals of ICAI.
2. The Board has forwarded to this Disciplinary Committee, a press release dated 5th May, 2022 issued by Central Bureau of Investigation (CBI) and First Information Report (FIR) (under section 154 of Cr.P.C) dated 4th May, 2022 registered by CBI, Pune against Mr. Maity and requested for urgent action in view of the fact the Mr. Maity is handling 13 assignments, which are ongoing. It has been mentioned in the press release, that the CBI has arrested Mr. Maity regarding demand for undue advantage of Rs.20,00,000/-. On perusal of the FIR, it is observed that the allegations are of serious in nature leading to contravention of multiple provisions of the Code including section 208(2)(a) of the Insolvency and Bankruptcy Code, 2016 (the Code) read with regulations 7(2)(a), 7(2)(b), 7(2)(h) and 7(2)(i) of the IBBI (Insolvency Professionals) Regulations, 2016 and clauses 1, 2, 3, 5, 9, 12, 14, 17, 24 and 28 of the Code of Conduct specified thereunder.
3. This raises serious questions of him being "fit and proper" to continue as an IP. His arrest is bound to hamper the ongoing processes being handled by him, and therefore would jeopardise the interest of concerned stakeholders.
4. This Disciplinary Committee in exercise of the powers conferred under sub-regulation 4 of regulation 9 of the Insolvency and Bankruptcy Board of India (Inspection and Investigation) Regulations, 2017 hereby issues an ex-parte interim order due to urgency of the matter and suspends the registration of Mr. Subrata Monindranath Maity as an Insolvency Professional, having Registration No. IBBI/IPA-001/IP-P00884/2017-2018/11481 with following directions:
 - a) This interim order shall come into force with immediate effect and shall cease to have effect on expiry of 90 days from the date of this order;
 - b) The Board is directed to urgently issue a show cause notice to Mr. Maity and put up the response of Mr. Maity at the earliest before the Disciplinary Committee for the final order, not later than 30 days from the date of issue of this order;
 - c) A copy of this interim order be sent to-
 - (i) the Committee of Creditors (CoC) of all the Corporate Debtors, in which Mr. Maity is providing his services as Interim Resolution Professional/Resolution



- Professional to discontinue his services and seek replacement in terms of section 27 of the Code.
- (ii) the corporate persons where Mr. Maity is acting as liquidator in voluntary liquidation processes with the direction to replace Mr. Maity with new liquidator;
 - (iii) the Adjudicating Authority with a request to replace Mr. Maity, in the ongoing liquidation processes;
 - (iv) the Indian Institute of Insolvency Professional of ICAI where Mr. Subrata Mondraam Maity is enrolled as its member;
 - (v) the Registrar of the National Company Law Tribunal, Principal Bench, New Delhi for information.

4. If Mr. Maity is aggrieved by this order, he may submit his written submissions and may seek an opportunity of hearing within 15 days from the date of receipt of this order.

-Sd-
(Ravi Mittal)
Chairperson, IBBI

Dated: 9th May, 2022
Place: New Delhi

5. From the above it is understood that Mr. Subrata M. Maity has been suspended by IBBI and is barred from carrying any CIRP and Liquidation processes in his hand immediately from the date of the interim order i.e., 09.05.2022.

6. The Learned Counsel for the Applicant placing his reliance upon the interim order in IBBI/DC/95(Interim)/2022 has sought necessary steps to change Mr. Subrata M. Maity, the Resolution Professional. It is further submitted that, the preparation of stakeholders list is still pending as it is to be done by the Liquidator.

7. The Learned Counsel for the Applicant has further averred that the applicant is the sole financial creditor and has all locus to file the instant application seeking change of liquidator.

9. Heard the Applicant and perused the documents adduced, upon mere glance of the relevant regulations, directions given in the interim order and the date of filing of the instant application and upon thorough verification of the IBBI website it is seen that the interim order shall lapse on expire of 90 days from the date of Order and no further order has been passed by the IBBI with respect to the matter of Mr. Subrata M. Maity. On calculation of the number of days as per rule 3 of NCLT, Rules, 2016 as extracted hereunder,

3. Computation of time period.- *Where a period is prescribed by the Act and these rules or under any other law or is fixed by the Tribunal for doing any act, in computing the time, the day from which the said period is to be reckoned shall be excluded, and if the last day expires on a day when the office of the Tribunal is closed, that day and any succeeding days on which the Tribunal remains closed shall also be excluded.*




Accordingly it is observed that the 90th day falls on 08.08.2022 excluding 09.05.2022, the date of interim order. The date of filling of the instant application is also on 08.08.2022.

10. Thus in the interest of Justice and to safeguard the interest of all parties concerned viz., the Corporate Debtor under CIRP, the members of the CoC and all other stakeholders this Adjudicating Authority, is duty bound to pass an order to ameliorate the present situation. Under the said circumstances, as the Stakeholders Committee is yet to be constituted this Adjudicating Authority from the latest list provided by IBBI for the period January 1, 2022 to June 30, 2022 appoint **Mrs. SANTHANALAKSHMI** bearing registration Number: **IBBI/002/IP-N00831/2019-2020/12661** (*email id- irp.santhanalakshmi@gmail.com*) as the *Resolution Professional of Automotive Coaches and Components Limited*. The Resolution Professional appointed herein is directed to take charge of the operations of the Corporate Debtor from the date of this Order.

11. The erstwhile Resolution Professional shall handover all the documents with regard to the Corporate Debtor to the Resolution Professional, **Mrs. SANTHANALAKSHMI**.

12. The *Registry* of this Tribunal is directed to forward a copy of this order to the IBBI and the Resolution Professional appointed herein.

13. Accordingly, **IA/(IBC)/872(CHE)/2022** stands ***disposed off***


SAMEER KAKAR
MEMBER (TECHNICAL)


SHRI BACHU VENKAT BALARAM DAS,
MEMBER (JUDICIAL)