

**NATIONAL COMPANY LAW TRIBUNAL
"CHANDIGARH BENCH, CHANDIGARH"
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)**

**CP (IB) No. 5/Chd/Hry/2019
And
CA No. 519/2019**

**Under Section 10 of Insolvency and
Bankruptcy Code, 2016**

In the matter of:

**Bourn Hall International
India Private Limited**
Block G, Greenwood City,
Sector 40, Gurgaon,
Haryana-122001

...Petitioner/Corporate Debtor

And in the matter of CA No. 519/2019:-

M/s RNY Healthcare Services Pvt. Ltd.
having its registered office
at I-63, South City-1, Gurgaon
through its authorized representative
Mr. Parmanand Yadav

...Intervener

Judgement delivered on: 29.05.2020

**Coram: Hon'ble Mr. Ajay Kumar Vatsavayi, Member (Judicial)
Hon'ble Mr. Pradeep R. Sethi, Member (Technical)**

For the petitioner-
corporate debtor

- : 1). Ms. Munisha Gandhi, Senior Advocate
2). Mr. Ambanshu Sahni
3). Ms. Salina Chalana

For the Intervener

- : 1). Mr. Sunil Chadha, Senior Advocate
2). Mr. Parmanand Yadav, Advocate
3). Mr. Himanshu Jain, Advocate

Per: Pradeep R. Sethi, Member (Technical)

JUDGEMENT

CP (IB) No. 5/Chd/Hry/2019 was filed by Bourn Hall International India Private Limited (**Bourn Hall**) for initiating Corporate Insolvency Resolution Process (**CIRP**) under Section 10 of the Insolvency and Bankruptcy Code, 2016 (**Code**) read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (**Rules 2016**). The master data of Bourn Hall is at Annexure A-16 of the petition. The registered office is at Block G, Greenwood City, Sector 40 Gurgaon 122001. Therefore, the jurisdiction vests with this Bench of the Tribunal.

2. The prescribed Form-6 has been filed. The Form is signed by Shri Gautam Chhabra, Director of Bourn Hall. His affidavit verifying the petition is at Pages 51 to 52 of the petition. As per resolution dated 31.10.2018 in EGM of members of Bourn Hall, any one director is authorised to sign and execute all necessary documents, applications and returns for the purpose of giving effect to the Special Resolution according consent of the members of Bourn Hall to the Board of Directors to make an application to the Tribunal for initiating CIRP under Section 10 of the Code.

3. In Part-III of Form No. 6, the names of the financial/operational creditors are given. There is only one financial creditor i.e. HDFC Bank Ltd. 127 suppliers of goods and services have been detailed. The address of correspondence of the financial/operational creditors, the total debt raised an amount in default as well as the date when the financial/ operational debt

was incurred are given in Part-III of Form No. 6. It is stated that Bourn Hall runs the Bourn Hall Fertility Clinic, Greenwood City, Sector 40 Gurugram which provides assisted reproductive technology services, including in vitro fertilisation (IVF) to couples in need. It is submitted that Bourn Hall is facing dire financial situation and has committed several defaults in its payment. The instances of default in payment are given in Para 11 of the facts of the case (Page 15 of the petition). The copies of e-mails, letters, notices and other communications regarding default are stated to be furnished in Annexure A-1 (Colly) of the petition.

4. During the course of the hearing on 10.01.2019, the learned counsel for Bourn Hall *inter alia* contended that there was a decision in the Extraordinary General Meeting of the company, whereby the decision was taken for filing the petition under Section 10 of the Code. It was stated that the documents pertaining to holding of the Extraordinary General Meeting of the company have also been attached but the Board Resolution has not been filed. Notice of defect was thereupon issued to Bourn Hall. In compliance thereof, affidavit was filed by the authorized representative of Bourn Hall vide Diary No. 232 dated 17.01.2019 alongwith the copy of minutes of the meeting of the Board of Directors of the company at Annexure A-3 and Pen Drive containing the audio and video recording of proceedings of the meeting. The same was taken on record.

5. Vide order dated 10.01.2019, notice of the petition was directed to be issued to the only financial creditor i.e. HDFC Bank Ltd. It is noted in the order dated 12.02.2019 that the affidavit of service was filed by the

authorized representative of Bourn Hall vide Diary No. 262 dated 07.02.2019 alongwith the postal receipt and tracking report showing that the item was delivered to the financial creditor. However, there was no representation from HDFC Bank Ltd. during the proceedings.

6. Vide order dated 13.06.2019, it was stated that as per the instructions to Form No. 6, Annexure VI (f), the names and addresses of the members and partners of the corporate debtor, as the case may be, with details of their respective shareholdings have not been furnished. Notice of defect was thereupon issued. Compliance was made by Diary No. 3052 dated 18.06.2019 giving the details of the members of Bourn Hall as on 05.11.2018 and 17.06.2019. The members are stated to be Bourn Hall International Limited Cyprus (99.999999% share) and Amit Gupta (0.000001% share).

7. Vide order dated 19.08.2019, it was stated that it has come to notice that as per details at Page No. 1102 of the petition, the notice given to Hoda Abou-Jamra, Director of Bourn Hall was sent on 30.10.2018 at 9:07 PM or a meeting of the Board of Directors to be held on 08:30 PM on the same day. Notice of defect was given to explain the matter. Affidavit of compliance was filed vide Diary No. 4883 dated 18.09.2019 and application for condonation of delay was filed by CA No. 843 of 2019. Vide order dated 04.10.2019, CA No. 843 of 2019 was allowed and the delay in filing the affidavit was condoned. The affidavit of compliance filed vide Diary No. 4883 dated 18.09.2019 was taken on record. It is stated in the affidavit of compliance that the time standard of 09.07 PM as visible on the e-mail dated

03.10.2018 (Page 1102 of the petition) is due to the difference in the time zone of the sender and the recipient, as Ms Hoda Abou-Jamra is a foreign national and operates an e-mail account (abou-jamra@pvmcapitalhealthcare.com) from outside of India and that Ms Hoda Ahou Jamra gave her consent to attend the board meeting via video conferencing at 7:42 PM on 30.10.2019 after complying with all the applicable rules and laws. It is further undertaken that the e-mail was sent from the e-mail account of the Company Secretary at 7:37 PM Indian Standard Time on 30.10.2018 giving a notice of the board meeting to be held at 08:30 PM IST on the same day i.e. 30.10.2018.

8. Application for intervention on behalf of RNY Healthcare Services Pvt. Ltd. was filed vide CA No. 519/2019. It is stated that the applicant was the landlord of the corporate applicant for the premises at Block G, Greenwood City, Sector 40 Gurgaon, where the chief operations of the corporate applicant were existent before the filing of the present petition. It is submitted that Bourn Hall has stated that it is unable to pay its debts to its operational creditors while not disclosing true and material facts with reference to the holding pattern of Bourn Hall and deep pockets of its parent company and that ever since its inception, Bourn Hall has been funded by M/s TVM Capital Healthcare Partners Ltd. (owning 100% equity in Bourn Hall International Pvt. Ltd. Cyprus) through M/s Bourn Hall International Pvt. Ltd. Cyprus (holding 99.99% equity of Bourn Hal)l. Reference is also made to arbitral award by the Arbitral Tribunal constituted with consent of Bourn Hall alongwith its holding company in favour of the intervener on 06.02.2019

in terms of which the intervener has been held entitled to a total sum of ₹3,48,41,071/- after adjustment of security deposit available with the intervener. It is pleaded that no meeting of the directors/ shareholders of the corporate applicant ever took place on 30/31.10.2018 and therefore, the entire proceedings is a sham. Reference is made to Bourn Hall engaging a consultancy firm and paying a huge sum of US Dollars 1,50,000 to them through the holding company and/or through the promoters of the holding company. However, the details of the consultancy firm and the details of the payments are not given.

9. Vide order dated 28.3.2019, on being informed by Sh. Vaibhav Sahni Advocate for the intervener that intervention application was filed vide diary no. 1571, opportunity was given to Bourn Hall to file reply and it was further directed that during this interregnum, the property under lis and subject matter of this petition i.e. embryo to be protected by whosoever is having possession over the property under consideration and any damage shall be duly compensated by him.

10. Vide order dated 5.7.2019, it was noted that the representative for the intervener states that there was delay in filing the intervention application and time was granted for filing the same. The learned Senior Counsel for Bourn Hall objected to the admission of the application and relied on the decision of Hon'ble National Company Law Appellate Tribunal dated 1.12.2017 in Company Appeal (AT) (Insolvency) no. 81 of 2017 – **Unigreen Global Private Limited vs. Punjab National Bank, New Delhi & ors.** Considering the observations of the Bench made in the order dated

13.6.2019, the objections of the learned Senior Counsel were overruled and intervention application which may be filed, was directed to be heard on the next date of hearing.

11. Vide order dated 22.1.2020, it was noted that the learned senior counsel for Bourn Hall submits that Bourn Hall does not intend to submit any counter in the CA, as they are opposing and challenging the maintainability of the CA itself.

12. During the course of the hearing, it is pleaded by the learned senior counsel for Bourn Hall that all the requirements of the Code and the Rules, 2016 are complied with in the present case and since the Form-6 is complete, the Tribunal has no jurisdiction to entertain the intervention application. Reliance in this regard is placed on the judgment of the **Hon'ble National Company Law Appellate Tribunal (NCLAT) in M/s Unigreen Global Pvt. Ltd. Company Appeal (AT) (Insolvency) No. 81 of 2017**. It has also been pleaded that roving and fishing enquiry cannot be allowed and reliance in this regard is placed on order dated 20.07.2017 of the **Hon'ble NCLT, New Delhi Principal Bench, CP No. 78(ND)/2017, Manmohan Malik, Director of M/s Himalaya Simplot Pvt. Ltd. and another Vs. M/s Simplot India Foods Pvt. Ltd. and others, 2017SCCOnlineNCLT7389**. It is further pleaded that the holding company and subsidiary company are distinct and reliance is placed on **Vodafone International Holdings BV Vs. Union of India and another (2012)6 Supreme Court Cases 613**. The learned senior counsel for the intervener has pleaded that in view of the submissions made in the intervention application, the application under

Section 10 of the Code be dismissed and the application be also rejected on the ground of concealment of facts and misconduct and falsification of the facts and wilful omission from the statement relating to affairs of Bourn Hall and Bourn Hall be punished in accordance with law. It is also pleaded that the police inquiry be conducted in the money laundering activities of Bourn Hall.

13. We have carefully heard and considered the arguments of the learned senior counsel of Bourn Hall and the intervener and have also perused the record. The relevant provisions of Section 10 of the Code are as follows:-

“(1) Where a corporate debtor has committed a default, a corporate applicant thereof may file an application for initiating corporate insolvency resolution process with the Adjudicating Authority.

(2) The application under sub-section (1) shall be filed in such form, containing such particulars and in such manner and accompanied with such fee as may be prescribed.

(3) The corporate applicant shall, along with the application, furnish-

(a) the information relating to its books of account and such other documents for such period as may be specified;

(b) the information relating to the resolution professional proposed to be appointed as an interim resolution professional; and

(c) the special resolution passed by shareholders of the corporate debtor or the resolution passed by at least three-fourth of the total number of partners of the corporate debtor, as the case may be, approving filing of the application.

(4) The Adjudicating Authority shall, within a period of fourteen days of the receipt of the application, by an order—

(a) admit the application, if it is complete and no disciplinary proceeding is pending against the proposed resolution professional; or

(b) reject the application, if it is incomplete or any disciplinary proceeding is pending against the proposed resolution professional :

Provided that Adjudicating Authority shall, before rejecting an application, give a notice to the applicant to rectify the defects in his application within seven days from the date of receipt of such notice from the Adjudicating Authority.

(5) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (4) of this section.”

14. Section 10(1) of the Code states that application for initiating CIRP by a corporate debtor can only be filed where the corporate debtor has committed a default. In the present case, Bourn Hall has stated that it is evident from the several e-mails, legal notice for repayment of operational debt due, and the recovery suit filed by an operational creditor for recovery of debts due to the said operational creditor that Bourn Hall has committed a default in repayment of its debt. The copies of emails, notice and other communication are stated to be annexed as Annexure A-1 (Colly) of the petition. Further, in the facts of the case (Para No. 11-Page 15 of the petition), Bourn Hall has enumerated numerous instances of default in payment by it. The statement of affairs as on 20.10.2018 has been filed to show that as against capital account balance of ₹29,46,031.64, there is a debit balance in the P&L Account of ₹109,085,467.13. The net worth is therefore, clearly negative. Therefore, Bourn Hall has satisfied the condition that default has been committed by it.

15. Section 10(3)(c) of the Code requires passing of the special resolution by the shareholders of the corporate debtor approving filing of the application. A true copy of the resolution passed in the Extraordinary General Meeting of the Members of Bourn Hall on 31.10.2018 is at Annexure

A-14 of the petition and the consent of the members of Bourn Hall was accorded to the Board of Directors to make an application to the Tribunal for initiating CIRP under Section 10 of the Code.

16. In the Intervention Application CA No. 519/2019, it has been alleged that no meeting of the shareholders ever took place on 31.10.2018. We have discussed below that the intervener has not placed any evidence on record to prove the contention. We however note that Annexure A-14 of the petition only contains the notice of EGM and the true copy of the resolution passed in the EGM on 31.10.2018. The resolution states that the consent of the members of Bourn Hall is accorded to the Board of Directors to make an application. However, no attendance sheet for the EGM has been filed and the details of the members of Bourn Hall attending the EGM and the details of their representatives, if any, through whom the attendance was made is not given. The decision taken hereafter in the present proceedings for admission of the application under Section 10 of the Code is subject to reconsideration in case the EGM of the shareholders on 31.10.2018 is not found to be compliant with the provisions of the Companies Act, 2013.

17. As regards Section 10(2) and 10(3)(a) of the Code, the application is filed in the prescribed Form No. 6 and is found to contain the particulars required therein. Annexure 6 to Form No. 6 requires filing of the statement of affairs made upto a date not earlier than 14 days from the date of application. It is seen that the application in the present case was filed by Diary No. 4296 on 05.11.2018 and that 03.11.2018 and 04.11.2018 were

Saturday and Sunday and were thus closed days of the Tribunal. The statement of affairs as on 20.10.2018 is filed at Annexure A-11 of the petition. Taking into consideration the closed days of 03.11.2018 and 04.11.2018, the due compliance of filing of statement of affairs upto a date not earlier than 14 days from the date of application is taken as satisfied. We have discussed above that the names and addresses of the members of Bourn Hall with details of their respective shareholding was not furnished in the petition and that notice of defect in this regard was given on 13.06.2019. The affidavit of compliance was filed by Diary No. 3052 dated 18.06.2019 and thereby, the defect was removed.

18. In Part-II of Form-6, Shri Madan Gopal Jindal has been proposed as Interim Resolution Professional (**IRP**). His IBBI Registration No. is stated to be IBBI/IPA-002/IPN00137/2017-18/10352. The written consent of the IRP in Form 2 is stated to be attached at Annexure A-5 at Page No. 697. In the Form 2, the proposed IRP has certified that there are no disciplinary proceedings pending against with him with the Board or ICSI Institute of Insolvency Professionals. Therefore, the requirements of Section 10(3)(b) of the Code are also satisfied.

19. We have discussed above that the only financial creditor is HDFC Bank Ltd. Its outstanding is ₹138,512.40 as on 20.10.2018 (Annexure A-11 of the petition). We have discussed above that notice was directed to be issued to HDFC Bank Ltd. and that the affidavit of service was filed vide Diary No. 262 dated 07.02.2019 alongwith postal receipt and tracking report showing that the item was delivered to the financial creditor. However, there

has been no representation from HDFC Bank Ltd. during the present proceedings.

20. We have stated above that intervention application was filed by RMY Healthcare Pvt. Ltd. (CA No. 519/2019). In the intervention application, the major contention raised is that the holding company of Bourn Hall i.e., Bourn Hall International Ltd. Cyprus has a good financial status in the international market as its holding company TVM Capital Healthcare Partners is a financial establishment and it is from the financial institution and entity, the operational costs and financial support of Bourn Hall were met till the filing of the petition. The learned senior counsel for Bourn Hall has pleaded that in ***Vodafone International holding BV Vs. Union of India and others (Supra)***, the Hon'ble Supreme Court has held in Para No. 254 that the Companies Act in India and all over the world have statutorily recognized subsidiary company as a separate legal entity and therefore, the financial status of the holding company is not relevant for the determination of the issue whether Section 10 of the Code is applicable in the case of Bourn Hall. It is also pleaded by the learned senior counsel for Bourn Hall that the Hon'ble NCLAT has held in Paras No. 20 to 23 of his judgment in ***Unigreen Global Pvt. Ltd. (Supra)*** as under:-

“20. Under both Section 7 and Section 10, the two factors are common i.e. the debt is due and there is a default. Sub-section (4) of Section 7 is similar to that of sub-section (4) of Section 10. Therefore we, hold that the law laid down by the Hon'ble Supreme Court in “Innoventive Industries Ltd. (Supra) is applicable for Section 10 also, wherein the Hon'ble Supreme Court observed as “The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted

unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the adjudicating authority”.

21. In an application under Section 10, the ‘financial creditor’ or ‘operational creditor’, may dispute that there is no default or that debt is not due and is not payable in law or in fact. They may also oppose admission on the ground that the Corporate Applicant is not eligible to make application in view of ineligibility under Section 11 of the I & B Code. The Adjudicating Authority on hearing the parties and on perusal of record, if satisfied that there is a debt and default has occurred and the Corporate Applicant is not ineligible under Section 11, the Adjudicating Authority has no option but to admit the application, unless it is incomplete, in which case the Corporate Applicant is to be granted time to rectify the defects.

22. Section 10 does not empower the Adjudicating Authority to go beyond the records as prescribed under Section 10 and the informations as required to be submitted in Form 6 of the Insolvency and Bankruptcy (Application to the Adjudicating Authority) Rules, 2016 subject to ineligibility prescribed under Section 11. If all informations are provided by an applicant as required under Section 10 and Form 6 and if the Corporate Applicant is otherwise not ineligible under Section 11, the Adjudicating Authority is bound to admit the application and cannot reject the application on any other ground.

23. Any fact unrelated or beyond the requirement under I & B Code or Forms prescribed under Adjudicating Authority Rules (Form 6 in the present case) are not required to be stated or pleaded. Non-disclosure of any fact, unrelated to Section 10 and Form 6 cannot be termed to be suppression of facts or to hold that the Corporate Applicant has not come with clean hand except the application where the ‘Corporate Applicant’ has not disclosed disqualification, if any, under Section 11. Non-disclosure of facts, such as that the ‘Corporate Debtor’ is undergoing a corporate insolvency resolution process; or that the ‘Corporate Debtor’ has completed corporate insolvency resolution process twelve months preceding the date of making of the application; or that the corporate debtor has violated any of the terms of resolution plan which was approved twelve months before the date of

making of an application under the said Chapter; or that the corporate debtor is one in respect of whom a liquidation order has already been made can be a ground to reject the application under Section 10 on the ground of suppression of fact/not come with clean hand.”

21. The Hon'ble NCLAT has therefore, held that if the Adjudicating Authority on hearing the parties and on perusal of record is satisfied that there is a debt and default has occurred and the corporate applicant is not ineligible under Section 11, the Adjudicating Authority has no option but to admit the application, unless it is incomplete, in which case the corporate applicant is to be granted time to rectify the defects. In the present case, there is no averment in the intervention application that Bourn Hall is not ineligible under Section 11 of the Code. The pleadings in the intervention application bring out that there is a debt due to the intervention applicant and that there is default in the payment of the debt. The Hon'ble NCLAT has also held that non-disclosure of any fact unrelated to Section 10 and Form 6 cannot be termed to be suppression of facts or to hold that the corporate application has not come with clean hand except the application where the corporate applicant has not disclosed disqualification, if any, under Section 11. In view of this position of law, the intervention application cannot be accepted on the major contention raised.

22. The intervener has referred to arbitral award dated 6.2.2019 in its favour for ₹3,48,41,071, after adjustment of security deposit available with the intervener. The arbitral award is passed after the filing of the application

u/s 10 of the Code and the same would be considered by the IRP as and when claim is made by the intervener during CIRP.

23. The intervener has submitted that no meeting of the directors/ shareholders of Bourn Hall ever took place on 30/31/10.2018, but has placed no evidence on record to prove the contention.

24. Therefore, the intervention application No. CA 519/2019 is rejected.

25. Section 10(4)(a) of the Code provides for admitting the application, if it is complete and no disciplinary proceeding is pending against the proposed Resolution Professional. We have already discussed above that the application is complete and that the proposed Resolution Professional has furnished Form No. 2 stating that there are no disciplinary proceedings pending against him with Board or ICSI Institute of Insolvency Professional.

26. Subject to the discussion in para no. 16 above, we therefore, admit the application under Section 10 of the Code of initiation of CIRP in the case of Bourn Hall International India Private Limited and direct moratorium and appointment of Interim Resolution Professional as below.

27. We declare the Moratorium in terms of sub-section (1) of Section 14 of the Code as under:-

- (a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in

any court of law, tribunal, arbitration panel or other authority;

(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

28. It is further directed that the supply of essential goods or services to the corporate debtor as may be specified, shall not be terminated or suspended or interrupted during moratorium period. The provisions of Section 14(3) shall however, not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator and to a surety in a contract of guarantee to a corporate debtor.

29. The order of moratorium shall have effect from the date of this order till completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of corporate debtor under Section 33 as the case may be.

30. The Law Research Associate of this Tribunal has checked the credentials of Mr. Madan Gopal Jindal and there is nothing adverse against him. In view of the above, we appoint Mr. Madan Gopal Jindal, SCO 7-8, 4th Floor, Jandu Tower, Miller Ganj, G.T. Road, Ludhiana, Punjab-141003, Registration No. IBBI/IPA-002/IPN00137/2017-18/10352, Mobile No. 098141-70354, e-mail id: mjjindal@gmail.com the Interim Resolution Professional, with the following directions:-

- i) The term of appointment of Mr. Madan Gopal Jindal shall be in accordance with the provisions of Section 16(5) of the Code;
- ii) In terms of Section 17 of the Code, from the date of this appointment, the powers of the Board of Directors shall stand suspended and the management of the affairs shall vest with the Interim Resolution Professional and the officers and the managers of the Corporate Debtor shall report to the Interim Resolution Professional, who shall be enjoined to exercise all the powers as are vested with Interim Resolution Professional and strictly perform all the duties as are enjoined on the Interim Resolution Professional under Section 18 and other relevant provisions of the Code, including taking control and custody of the assets over which the Corporate Debtor has ownership rights recorded in the balance sheet of the Corporate Debtor etc. as provided in Section 18 (1) (f) of the Code. The Interim

Resolution Professional is directed to prepare a complete list of inventory of assets of the Corporate Debtor;

- iii) The Interim Resolution Professional shall strictly act in accordance with the Code, all the rules framed thereunder by the Board or the Central Government and in accordance with the Code of Conduct' governing his profession and as an Insolvency Professional with high standards of ethics and moral;
- iv) The Interim Resolution Professional shall cause a public announcement within three days as contemplated under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the initiation of the Corporate Insolvency Resolution Process in terms of Section 13 (1) (b) of the Code read with Section 15 calling for the submission of claims against Corporate Debtor;
- v) It is hereby directed that the Corporate Debtor, its Directors, personnel and the persons associated with the management shall extend all cooperation to the Interim Resolution Professional in managing the affairs of the Corporate Debtor as a going concern and extend all cooperation in accessing books and records as well as assets of the Corporate Debtor;

- vi) The Interim Resolution Professional shall after collation of all the claims received against the corporate debtor and the determination of the financial position of the corporate debtor constitute a committee of creditors and shall file a report, certifying constitution of the committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene first meeting of the committee within seven days of filing the report of constitution of the committee; and
- vii) The Interim Resolution Professional is directed to send regular progress report to this Tribunal every fortnight.

31. As discussed above, CA 519/2019 is rejected.

32. The interim directions given vide order dated 28.3.2019 regarding protection of the embryos will continue till the embryos are physically taken over by the IRP.

A copy of this order be communicated to the applicant and the intervener. The learned counsel for the applicant company shall deliver copy of this order to the Interim Resolution Professional forthwith. The Registry is also directed to send copy of this order to the Interim Resolution Professional at his email address forthwith.

Sd/-
(Ajay Kumar Vatsavayi)
Member (Judicial)

Sd/-
(Pradeep R. Sethi)
Member (Technical)

May 29th, 2020

Yashpal

CP (IB) No. 5/Chd/Hry/2019

And

CA No. 519/2019