

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
(Through web-based video conferencing platform)

ITEM No.14
I.A No. 399 of 2020,
I.A Nos. 25, 127, 288 & 395 of 2021 &
I.A Nos. 101, 102, 103, 104, 105 & 106 of 2022 in
CP (IB) No.189/BB/2018

IN THE MATTER OF:

M/s. Moonbeam Advisory Pvt Ltd	...	Petitioner
Vs.		
M/s. Samrudhi Reality Ltd	...	Respondent

Order under Section 9 of Insolvency & Bankruptcy Code, 2016

Order delivered on 25.03.2022

CORAM:

SH. AJAY KUMAR VATSAVAYI
HON'BLE MEMBER (JUDICIAL)

SH. MANOJ KUMAR DUBEY
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Liquidator	: Sh. Abhishek Anand
For the Applicant in I.A No. 395 if 2021	: Sh. Sriranga, Senior Counsel
For the Applicant in I.A No. 127 of 2021	: Sh. R A Ashwin
For the Respondent No.1 in I.A No. 399 of 2020 & I.A No. 25 of 2021	: Sh. S.R Tejas

ORDER

I.A Nos. 103, 104, 105 and 106 of 2022

1. Heard Mr. Abhishek Anand, learned Counsel for the Liquidator.
2. All these Applications have been filed by the erstwhile RP of M/s. Samrudhi Reality Ltd before passing the order of Liquidation U/s. 66 and 43(1) of the I&B Code, 2016. When these matters are taken up for hearing, the learned Counsel appearing for the Liquidator seeks leave of this Tribunal to withdraw these Applications with a liberty to file fresh/better Applications.

— Sd. —

3. In the circumstances and as prayed by the learned Counsel appearing for the Liquidator, all these I.As are permitted to be withdrawn with a liberty as aforesaid.
4. Accordingly, I.A Nos. 103, 104, 105 & 106 of 2022 are dismissed as withdrawn.

I.A No. 101 of 2022

1. Heard Mr. Abhishek Anand, learned Counsel for the Liquidator.
2. This Application has been filed by the Liquidator of M/s. Sammrudhi Reality Ltd seeking to substitute the 2nd Respondent in I.A No. 25 of 2021 i.e. M/s. India Bulls Asset Reconstruction Company Limited with M/s. Assets Care and Reconstruction Enterprise Ltd (ACRE), on the ground that M/s. India Bulls Asset Reconstruction Company Limited has assigned its subject debts to M/s. Assets Care and Reconstruction Enterprise Ltd (ACRE).
3. In the circumstances and for the reasons mentioned in the Application, the instant I.A is allowed to the limited extent of amending the I.A by substituting the 2nd Respondent M/s. India Bulls Asset Reconstruction Company Limited with that of M/s. Assets Care and Reconstruction Enterprise Ltd (ACRE), as a 2nd Respondent in the I.A No. 25 of 2021. The Applicant is directed to file an amended memo of parties in I.A No. 25 of 2021 duly replacing the 2nd Respondent with the newly impleaded Respondent i.e. M/s. Assets Care and Reconstruction Enterprise Ltd (ACRE) within one week from today.
4. Accordingly, I.A No. 101 of 2022 is disposed of.

I.A No. 102 of 2022

1. Heard Mr. Abhishek Anand, learned Counsel for the Liquidator.
2. This Application has been filed by the Liquidator of M/s. Sammrudhi Reality Ltd seeking to substitute the 2nd Respondent in I.A No. 399 of 2020 i.e. M/s. India Bulls Asset Reconstruction Company Limited with M/s. Assets Care and Reconstruction Enterprise Ltd (ACRE), on the ground that M/s. India Bulls Asset Reconstruction Company Limited has assigned its subject debts to M/s. Assets Care and Reconstruction Enterprise Ltd (ACRE).
3. In the circumstances and for the reasons mentioned in the Application, the instant I.A is allowed to the limited extent of amending the I.A by substituting

— Sd —

the 2nd Respondent M/s. India Bulls Asset Reconstruction Company Limited with that of M/s. Assets Care and Reconstruction Enterprise Ltd (ACRE), as a 2nd Respondent in the I.A No. 399 of 2020. The Applicant is directed to file an amended memo of parties in I.A No. 399 of 2020 duly replacing the 2nd Respondent with the newly impleaded Respondent i.e. M/s. Assets Care and Reconstruction Enterprise Ltd (ACRE) within one week from today.

4. Accordingly, I.A No. 102 of 2022 is disposed of.

I.A No. 25 of 2021

1. Heard Mr. Abhishek Anand, learned Counsel for the Liquidator.
2. The statement of objections have been filed on behalf of Respondent No.1.
3. The learned Counsel appearing for the Liquidator submits that the 3rd Respondent M/s. Phoenix Arc Pvt Ltd is also 3rd Respondent in I.A No. 399 of 2020 and has filed common statement of objections for I.A No. 25 of 2021 & I.A No. 399 of 2020. The 2nd Respondent i.e. M/s. India Bulls Asset Reconstruction Company Limited is substituted with M/s. Assets Care and Reconstruction Enterprise Ltd (ACRE) by virtue of orders passed in I.A No. 101 of 2022.
4. Hence, issue notice to the newly impleaded 2nd Respondent i.e. M/s. Assets Care and Reconstruction Enterprise Ltd (ACRE). Registry is directed to prepare the notice and Counsel for the Applicant is permitted to collect the notice and serve it on the Respondent No.2 along with Application and other material papers through e-mail as well as by speed post and is directed to file affidavit of service in the Registry within three weeks.
5. A period of three weeks for filing reply from the date of receipt of copy of the notice and two weeks for filing rejoinder, if any, thereto from the date of receipt of copy of reply is granted.
6. The Applicant shall also file their rejoinder to the objections already filed on behalf of the Respondent Nos. 1 & 3, if any, before the next date of hearing.
7. List the I.A on **07.04.2022**.

I.A No. 399 of 2020

1. Heard Mr. Abhishek Anand, learned Counsel for the Liquidator.
2. The statement of objections have been filed on behalf of Respondent No.1.

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3. The learned Counsel appearing for the Liquidator submits that the 3rd Respondent M/s. Phoenix Arc Pvt Ltd is also 3rd Respondent in I.A No. 25 of 2021 and has filed common statement of objections for I.A No. 25 of 2021 & I.A No. 399 of 2020. The 2nd Respondent i.e. M/s. India Bulls Asset Reconstruction Company Limited is substituted with M/s. Assets Care and Reconstruction Enterprise Ltd (ACRE) by virtue of orders passed in I.A No. 102 of 2022.
4. Hence, issue notice to the newly impleaded 2nd Respondent i.e. M/s. Assets Care and Reconstruction Enterprise Ltd (ACRE). Registry is directed to prepare the notice and Counsel for the Applicant is permitted to collect the notice and serve it on the Respondent No.2 along with Application and other material papers through e-mail as well as by speed post and is directed to file affidavit of service in the Registry within three weeks.
5. A period of three weeks for filing reply from the date of receipt of copy of the notice and two weeks for filing rejoinder, if any, thereto from the date of receipt of copy of reply is granted.
6. List the I.A on **07.04.2022.**

I.A No. 127 of 2021

1. This Application has been filed by the erstwhile RP of the Corporate Debtor i.e. M/s. Sammrudhi Reality Ltd seeking direction for payment of unpaid Insolvency Resolution Process cost incurred by the Applicant amounting to Rs.2,30,30,622/-, as detailed in Annexure-11 at Page 101 of the Application.
2. The Liquidator of the Corporate Debtor vide its reply filed vide Diary No. 404 dated 01.02.2022, though denied various allegations made in the Application finally at Para 10 at Page No.8 of the said reply stated " That the unpaid CIRP cost shall be paid from the proceeds of the sale and shall be paid on priority in terms of the waterfall mechanism provided under Section 53 of the Code."
3. Heard Mr. R A Ashwin, learned Counsel for the Applicant and Mr. Abhishek Anand, learned Counsel for the Liquidator.
4. The learned Counsel appearing for the Liquidator, on instructions confirmed the statement made in the reply.
5. In the circumstances, the I.A is disposed of accordingly.

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I.A No. 395 of 2021

1. Heard Mr. Sriranga, learned Senior Counsel for the Applicant.
2. List the I.A on **07.04.2022** along with I.A No. 343 of 2021.

I.A No. 288 of 2021

1. List the I.A on **07.04.2022**.

— sd —

**(MANOJ KUMAR DUBEY)
MEMBER (TECHNICAL)**

— sd —

**(AJAY KUMAR VATSAVAYI)
MEMBER (JUDICIAL)**