

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1**
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
14-06-2022 AT 10:30 A.M. THROUGH VIDEO CONFERENCE

IA(IBC) 433/2022 in CP(IB) No. 219/7/HBD/2017
U/s 7 of IBC, 2016.

IN THE MATTER OF:

Assets Reconstuction Company(India)Limited

...Financial Creditor

Vs

Viceroy Hotels Limited

...Corporate Debtor

C O R A M:-

DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. VEERA BRAHMA RAO AREKAPUDI, HON'BLE MEMBER (TECHNICAL)

O R D E R

Orders pronounced in **IA No.443/2022** in Company Petition CP IB
No.219/7/HDB/2017 vide separate orders.

In the result the Application is allowed, however, with a direction to complete the
CIRP within a period of 90 days from the date of this order. No further extension
will be permitted.

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)

**NATIONAL COMPANY LAW TRIBUNAL
BENCH-1, HYDERABAD**

IA No.443 of 2022 in CP (IB) NO. 219/7/HDB/2017

APPLICATION UNDER SECTION 60(5) OF IBC, 2016,

IN THE MATTER OF VICEROY HOTELS LIMITED

BETWEEN

Dr.Govindarajula Venkata Narasimha Rao

(Resolution Professional of Viceroy Hotels Limited appointed

Vide the order of this Hon'ble Tribunal dated 13.04.2022)

Having place of office at Plot No.20, Sector-I, Survey No.64,

4th Floor, Huda Techno Enclave, Hyderabad, 500 081.

... Petitioner

AND

Committee of Creditors (Viceroy Hotels Limited (In CIRP))

Represented by its lead member- Asset Reconstruction Company(India) Limited,

Having its Registered Office at the Ruby, Senapati Bapat Marg,

Dadar(W), Mumbai-400028,

Represented by its Authorized Signatory.

...Respondent

Date of order: 14.06.2022

Coram:

Dr N.Venkata Ramakrishna Badarinath, Hon'ble Member (Judicial)

Shri Veera Brahma Rao Arekapudi, Hon'ble Member (Technical)

Appearance

For Applicant: Shri Shabbeer Ahmed, Counsel.

For Respondent: Mr. Ravi Charan and Ms. Niharika Agarwal, Counsels.

[PER BENCH]

1. *This Application is filed by the Applicant under Section 60(5) of the I&B Code, 2016 R/w Rule 11 of the NCLT Rules, 2016 seeking to permit the Applicant to issue a Revised Form-G (Invitation for Expression of Interest) under Regulation 36A (1) of the I&B Regulations, 2016 inviting prospective Resolution Applicants to submit their Expressions of Interest (EOI) for the purpose of Insolvency Resolution of the Corporate Debtor. Further to grant 90 days' time to invite fresh EOI's from the interested bidders for submitting resolution plans for the corporate debtor.*
2. **Averments in brief:**
 - a. *As per the basic facts of the case, ARCIL as a financial creditor initiated CIRP against the corporate debtor i.e Viceroy Hotels Limited. This Adjudicating Authority has admitted the Application and appointed the IRP vide order dated 12.03.2018. Subsequently, IRP Mr.K.K.Rao, was appointed as RP and convened 19 COC meetings during the CIRP period.*
 - b. *It is averred that 18th COC meeting was held on 11.03.2019 and 12.03.2019 and evaluated the Resolution plans submitted by ARCIL, Unison Hotels Private Limited and CFM Asset Reconstruction Private Limited and placed before the COC. The COC had approved the Resolution plan submitted by CFM ARC by 88% voting.*
 - c. *Consequently, IA No.281 of 2019 was filed by the erst while RP before this Adjudicating Authority seeking approval of the Resolution Professional submitted by CFM ARC, which is dismissed by this Adjudicating Authority on 01.09.2021.*
 - d. *It is averred that the resolution plan was rejected by this Adjudicating Authority not on merits but on the issue of eligibility with a view that CFM*

ARC would not be cable of implementing the Resolution plan with out prior approval of RBI.

- e. *The order passed by this Adjudicating Authority in IA No.281/2019 was challenged by the COC, before Hon'ble NCLAT, Chennai vide Company Appeal(AT) (Ins) No.325 of 2021. In the said Appeal, the Hon'ble NCLAT, vide its order dated 17.12.2021 passed an order inter alia observing "In the interregnum, the IRP/RP will ensure that the Company remains a going concern. He will pay salary and wages to the officers/employees/workers etc.," The copy of the order of Hon'ble NCLAT is annexed to the application as **Annexure-1**.*
- f. *In the meanwhile, CFM ARC has filed an affidavit before Hon'ble NCLAT stating that its offer is no longer open in view of the Resolution plan being rejected by this Adjudicating Authority.*
- g. *It is averred that from the period of filing IA No.281 of 2019 till 20.04.2022 the corporate debtor is running as a going concern. Meanwhile, the respondent filed an IA No.27 of 2022 before this Adjudicating Authority for change of RP, Subsequently this Adjudicating Authority has directed the erst while RP to conduct the COC meeting for replacement of RP. In the 19th COC meeting held on 28.03.2022 the erst while RP has been replaced by the Applicant which was further confirmed by this Adjudicating Authority vide order dated 13.04.2022.*
- h. *It is further submitted that after the rejection of the Resolution plan by this Adjudicating Authority, one of the Unsuccessful Resolution Applicants i.e Union Hotels Private Limited filed an Application bearing I.A.No.176 of 2022 seeking a direction from this Adjudicating Authority to convene a meeting of COC for consideration of its plan evincing interest in participating in the insolvency Resolution process of Corporate*

Debtor. Further, a Hyderabad based entity by the name – Innopark (India) Private Limited has issued an email dated 23.03.2022 to the erstwhile RP expressing its interest in submitting a Resolution Plan for the Corporate Debtor. An Ahmedabad based entity – City gold Entertainment Limited has also issued an email on 31.03.2022 to the erstwhile RP making the members of the COC that it is desirous of participating in the insolvency Resolution Process of the Corporate Debtor. Additionally, another Hyderabad based entity – A I R Infra Projects has also issued an mail dated.01.04.2022 to lead Financial Creditor – ARCIL requesting for guidance on the Resolution Process. The copies of the emails are annexed to the application to the Application at Annexure-6,7,8.

- i. Based on the circumstances, for revival of the Corporate Debtor in the interest of all stakeholder, Applicant prayed this Adjudicating Authority to grant 90 days' time from date of its order, to issue Form G and invite fresh bids for the maximization of the asset value of the corporate Debtor so that existing and new bidders can participate. This was further confirmed vide resolution passed in 20th meeting of the COC convened by the applicant on 22.04.2022.
- j. It is averred that the primary intension of the IBC is to ensure revival and continuance of the Corporate Debtor as a going concern by protecting the Corporate Debtor from its own management and from a corporate death by Liquidation . since there are several interested parties who want to partake in the Insolvency Resolution Process, the corporate Debtor must not face the grim prospects of Liquidation which is not desirable for any stakeholder which is also not the intention of the IBC.
- k. It is averred that the Corporate Debtor which is running two well reputed star hotels in Hyderabad by the brand name “Marriott” and “Courtyard

by Marriott” has several hundreds of employees working in the organization and is also having active operations and maintenance contract with Marriott. There are regular cashflows in the company and livelihood of the hundreds of employees and workers are dependant on the daily operations of the company. A direction from this Hon’ble Tribunal to the Respondent – RP herein to issue fresh EOIs will enable the maximization of the value of the assets of the Corporate Debtor. It is well settled by the Hon’ble Supreme Court of India that the object of the IBC is revival of the Corporate Debtor and Liquidation should be a matter of last resort.

1. Applicant had also filed certain case laws to support his contention in the matter of

- Bank of Baroda Vs Agnipa Energo Pvt Ltd , where in the Hon’ble NCLT Guwahati Bench rejected the Application filed for liquidation of the corporate debtor and directed for fresh CIRP.
- Amit Goel and Ors vs Piyush Shelters India Private Ltd and Ors, wherein the Hon’ble NCLAT , New Delhi observing the possibility of getting successful resolution directed for fresh CIRP.

m. It is submitted that all the stakeholders of the Corporate Debtor especially the members of CoC have not only been making efforts for the last four years for resolution of the Corporate Debtor , and there are interested parties who have conveyed their interest in participation of the Resolution Process. Thus the Applicant prays this Adjudication Authority to permit the Applicant to issue a Revised From-G and grant 90 days for inviting fresh expression of interest.

3. We have heard the learned Counsel for the Resolution Professional and also perused the record. Needless to say that in the backdrop of facts and

circumstances of the present case, fresh EOI would certainly ensure maximization of asset value of the corporate debtor, which is one of the main objective of the I&B Code. Therefore, prayer as made in our considered view, can be allowed. Hence the petition is allowed, however, with a direction to complete the CIRP within a period of 90 days from the date of this order. No further extension on whatsoever ground will be permitted. Further the RP is directed to submit a monthly status report on CIRP to the Adjudicating Authority. With these directions IA is disposed of. No costs.

Sd/-

Veera Brahma Rao Arekapudi
Member Technical

Sd/-

Dr. N.V.Ramakrishna Badarinath
Member Judicial

Pavani