

NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

CP(IB) No.170/KB/2017

Present: Hon'ble Member (J) Shri Jinan K.R

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 28th February 2018, 10.30 A.M

Name of the Company	RBL Bank Ltd-Vs-MBL Infrastructure Ltd		
Under Section	60 IBC		
Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date

1. RATNANKO BANERJI, Sr Adv.
2. D.N. SHARMA, Adv.
3. SHAUNAK MITRA, Adv.
4. NEHA SOMANI, Pr. CS

} Resolution Applicant/
Mr. Anjanee Kr. Lakhota

1. Ramesh Chandra Prusti, Advocate
2. Balaram Pandit, Advocate
3. Manini Kabi, Advocate

} For
SBI, Financial creditor

Soureni
28/2/2018

1. Sanjeev Ahuja Resolution Professional
2. Lyoti Singh Advocate for RP.

Sanjeev Ahuja
28/2

1. ASHAY GADGADAR Advocate for IDBI Bank

SANJIB DAWN.
Advocate - RBL

Sanjeev Ahuja
28/2/2018

1) Mr Sidhartha Ghannu
2) Mr Rishav Banerjee
3) Ms Namrati Basu
4) Mr Reetobroto Datta

} for
PNB

Sanjeev Ahuja
28/2/2018


1. Pyoti Singh } Adv.
2. Rahul Arddy } Adv.

Appearing for
Sangeev Ahuja
(RP).

Rahul Arddy
28/2/18.

1. ANUJ SINGH, Adv.
2. URMILA CHAKRABORTY, Adv.
3. A.K. Singh, Adv.

for Bank of
India.


28/2/18

ORDER

Ld. Resolution Professional (RP) along with his Counsel is present. Ld. Counsel on behalf of the financial creditors as well as Ld. Counsel on behalf of the Resolution Applicant is present.

Ld. RP has filed this application [CA(IB) No. 168/KB/2018] u/s. 60(5) of the Insolvency and Bankruptcy Code, 2016 seeking certain directions to convene the meeting of the Committee of Creditors (CoC) for the limited purpose of seeking approval on appointing of M/s. SARC and Associates as the statutory auditors of the corporate debtor. In the alternative directions from this Adjudicating Authority dispensing with the approval of the Committee of Creditors (CoC) for appointment of M/s. SARC and Associates, Chartered Accountants (Firm Registration No. 006085N) as auditor of the corporate debtor.

It appears to me that the Ld. RP forced to file this application because there is non-existence of the CoC and failed to get prior approval of the CoC for the purpose of appointing a new auditor u/s. 28(1)(m) of the Insolvency and Bankruptcy Code, 2016. Since the Corporate Insolvency Resolution Process (CIRP) is already expired and at this juncture approval or rejection of the Resolution Plan is pending, on account of an appeal has been preferred before the Hon'ble NCLAT (Company Appeal (AT) (Insolvency) No. 330 of 2017). By an Order dated 11/01/2018 Hon'ble NCLAT directed that *the Adjudicating Authority may pass any appropriate order in the interest of the company and stakeholders, but will not pass any order accepting the resolution plan.*

Ld. RP has moved this application for the statutory compliance of the appointment of auditor in order to comply with the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR). It is, therefore, in the interest to see that the account of the corporate debtor is properly audited until the Resolution Plan is accepted or rejected so as to maintain proper account of the corporate debtor. Therefore,

it appears to me that such approval is necessary for dispensing with the approval of the CoC in order to confirm the appointment of M/s. SARC and Associates, Chartered Accountants (Firm Registration No. 006085N) in terms of the resolution of the Annual General Meeting held on 11/11/2017. The relief as sought for is deserved to be allowed in the peculiar nature and circumstances of the application under consideration. Accordingly, I allow the application by dispensing with approval of the Committee of Creditors for appointment of M/s. SARC and Associates, Chartered Accountants in terms of the resolution at the Annual General Meeting held on 11/11/2017.

CA(IB) No. 168/KB/2018 is disposed of accordingly.

Ld. Counsel appearing on behalf of IA(IB) No. 07/KB2018 sought leave to withdraw the application. Prayer is allowed. IA(IB) No. 07/KB2018 is hereby disposed of as withdrawn.

List it on 28/03/2018 for hearing.



(Jinan K.R.)
Member (J)