

**IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI**  
**PRINCIPAL BENCH**

Item No. 117  
**(IB)-477(PB)/2017**

**IN THE MATTER OF:**

Au Small Finance Bank Ltd. .... Applicant/petitioner  
Vs.  
Prabhu Shanti Real Estate Pvt. Ltd. .... Respondent

**Order under Section 7 of Insolvency & Bankruptcy Code, CIRP**

**Order delivered on 09.10.2018**

**Coram:**

**CHIEF JUSTICE (RTD.) M.M. KUMAR**  
**Hon'ble President**

**Sh. S. K. MOHAPATRA,**  
**Hon'ble Member (Technical)**

For the Applicant/petitioner: Mr. Rahul Shukla, Adv. for IRP.

**ORDER**

**CA-893(PB)/2018**

This is an application filed by a group of ten financial creditors Real Estate (Residential) with a prayer for recalling order dated 17.07.2018 appointing Mr. Manoj Aggarwal as Authorised Representative for the Real Estate financial creditors. The primary ground pleaded in support of the application is that on 13.07.2018, the IBBI has issued a notification prescribing the procedure for appointment of Authorised Representative for Real Estate (Residential/Commercial) as per the provisions of Section 21(6A)(b) of the IBC, 2016. According to the aforesaid circular following provision has been made for appointment of the Authorised Representative:-

*"...that where the corporate debtor has at least ten financial creditors in a class, the interim resolution professional shall offer a choice of three insolvency professionals and a creditor in the class may indicate its choice of an insolvency professional, from amongst the three, to act as its authorised representative. The insolvency professional, who is the choice of the highest number of creditors in the class, is appointed as the authorised representative of the creditors of the respective class. The authorised representative collects voting instructions from the respective class of creditors, attends the meetings of the committee of creditors (CoC) and casts vote in respect of the said class in accordance with the instructions he receives from the creditors."*



*“...It is necessary that an ongoing corporate insolvency resolution process, where creditors belonging to a class are otherwise not represented in the CoC, uses this simplified mechanism, irrespective of the stage of the process...”*

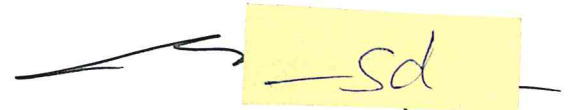
Ms. Ekta Jhanji learned counsel for the applicant states that when the application filed by Resolution Professional came up for hearing on 17.07.2018 the aforesaid rule position was not brought to the notice of this Bench and order in CA No. 598(PB)/2018 was obtained. Accordingly, one Mr. Manoj Aggarwal was appointed as the authorised representative whereas on 13.07.2018 the aforesaid circular has come into force. Learned counsel has pointed out that in the rejoinder, a copy of notification dated 03.07.2018 has been attached which was also required to be followed.

Face with the aforesaid situation, learned counsel for the RP states that the procedure as contemplated in law was required to be followed. As per the procedure three names of Insolvency Professionals were to be suggested. Learned counsel states that law shall be followed in letter and spirit and the needful shall be done by including three names in the choices which are to be given to the Real Estate (Residential/Commercial). The list shall include one name to be suggested by the applicant. The suggested names shall be furnished to the learned RP by tomorrow.

The order dated 17.07.2018 is recalled to that extent and the application stands disposed of.



**(M.M.KUMAR)  
PRESIDENT**



**(S. K. MOHAPATRA)  
MEMBER (TECHNICAL)**