

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

I.A.No.341/2018 in
C.P.(IB).No.66/BB/2017
U/s 22(3)(b) R/w Section 60(5) of IBC, 2016

In the matter of:

M/s. Axis Bank Limited
Corporate Banking Branch
2nd Floor, Express Building,
No.1 Queens Road,
Bengaluru – 560001.

- Applicant/Financial Creditor

Versus

M/s. Lotus Shopping Centres Pvt. Ltd.
Door No.15-8-441/50, Shop No.46,
1st Floor, Yenepoya Mall, Kadri Road,
Mangalore
Karnataka -575003.

- Respondent/Corporate Debtor

Date of Order: 24thOctober,2018

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Dr. Ashok Kumar Mishra, Member (Technical)

Parties/Counsels Present:

For the Petitioner : Shri Sharan A. Kukreja along with
Shri Siddarth Tiwary and Ms. Sindhu Rao

For the Respondent : None

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. I.A.No.341/2018 in CP(IB) No.66/BB/2017 is filed by Axis Bank Ltd., on behalf of the Committee of Creditors, under Section 22(3)(b) read with Section 60(5) of the IBC, 2016, by inter alia, seeking to appoint Shri Sanjay Kumar

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Mishra as Resolution Professional (RP) in place of Shri Sundaresh Bhat, who was appointed as Interim Resolution Professional (IRP) by the Tribunal.

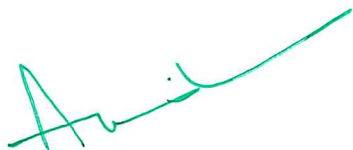
2. Heard Shri Sharan A. Kukreja along with Shri Siddarth Tiwary and Ms. Sindhu Rao, Learned Counsels for the Applicant/Financial Creditor.

3. The Learned Counsel submits that Axis Bank has initiated instant Corporate Insolvency Resolution Process (CIRP) by filing CP(IB)No.66/BB/2017 under Section 7 of the IBC, 2016. The Tribunal by an Order dated 30.08.2018 admitted petition by appointing Shri Sundaresh Bhat as IRP, and imposed moratorium. Accordingly, the IRP has initiated the necessary steps in respect of CIRP by causing public announcement on 06.09.2018 in The New Indian Express (English) and Udayavani (Kannada); has also constituted Committee of Creditors (CoC); and 1st CoC meeting held on 28.09.2018. The Committee is headed by Shri Sundaresh Bhat, IRP has informed the CoC that due to his much delayed appointment in the instant case, he has, in the meanwhile, taken up other professional assignments in the capacity of an IRP. Therefore, he wanted to step down from the instant CIRP. Accordingly, the representative of Axis Bank proposed the name of Shri Sanjay Kumar Mishra, having Regn.No.IBBI/IPA-001/IP-P01047/2017-2018/11730 to appoint as Resolution Professional for the Corporate Debtor. The CoC accorded its consent for replacement of Shri Sundaresh Bhat with that of Shri Sanjay Kumar Mishra, who is a qualified Resolution Professional. Shri Sanjay Kumar Mishra has submitted his written consent to act as Resolution Professional dated 28th September, 2018, Form AA to the Committee of Creditor and also filed written communication dated 28th September, 2018 in Form 2, which is enclosed to the application. The Learned Counsel submits that the resolution is approved by a majority voting of more than 66% of Committee of Creditors, and Axis Bank Ltd. itself is holding 73.99%.

4. We have considered the pleadings of the party including all the documents and extant provisions of Code and the rules made thereunder.

Shri Sanjay Kumar Mishra, the proposed IRP is registered with IBBI having Regn.No.IBBI/IPA-001/IP-P01047/2017-2018/11730. He also filed a written communication dated 28.09.2018 in Form No.2, by inter alia, stating that he is a qualified Resolution Professional, he is not currently serving as an IRP/RP/Liquidator, there are no disciplinary proceedings pending against him, etc. He has also filed an Affidavit dated 17.10.2018 in Form No.AA dated 28.09.2018. Therefore, we are of the prima facie view that Shri Sanjay Kumar Mishra is eligible to be appointed as Resolution Professional in the case of M/s. Lotus Shopping Centres Pvt. Ltd and he is not undergoing any disciplinary proceedings as per his own declaration.

5. Hence, I.A.No.341/2018 in C.P.(IB).No.66/BB/2017 is allowed by appointing Shri Sanjay Kumar Mishra having Regn.No.IBBI/IPA-001/IP-P01047/2017-2018/11730 as Resolution Professional in respect of M/s. Lotus Shopping Centres Pvt. Ltd. (Corporate Debtor). The Resolution Professional is directed to take expeditious steps, so as to complete the CIRP within the stipulated time, as prescribed under the Code, and further directed to submit reports explaining the action taken from time to time to the Tribunal. The RP is directed to revise his claim in consonance with work to be done. Post the C.P.(IB) No.66/BB/2017 for final hearing on 29.11.2018.



(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL



(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL