

**NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
COURT NO.1**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
BENGALURU BENCH, BENGALURU, HELD ON 22.07.2019

CAUSE LIST - 2

PRESENT: 1. Hon'ble Member (J) Shri Rajeswara Rao Vittanala
2. Hon'ble Member (T) Dr Ashok Kumar Mishra

CP/CA No.	Purpose	Sec	Name of Petitioner	Petitioner Advocate	Name of Respondent	Responder Advocate
CP(IB)No. 101/BB/2018	For hearing IA 345/19 – For change of RP	Sec 9 of I&B code 2016	R N Manohar	Agraa Legal Shri Shivadutt Bannanje IRP	GCL Pvt Ltd	A Murali Advocate, t S Rukkoji Rao, advocate in IA 345/19

ADVOCATE FOR PETITIONER/s:

Adv for ~~the~~ applicant in IA 345/19
8017621049
HEMANATH R. RAO

ADVOCATE FOR RESPONDENT/s: _____

ORDER

Heard Shri Hemanth R. Rao, learned Counsel for Applicant in I.A.No.345 of 2019. None appeared for the Respondent.

I.A.No.332 of 2019 in C.P.(IB)No.101/BB/2018 is disposed as withdrawn by granting liberty to file fresh I.A.

I.A. 345 of 2019 in C.P.(IB)No.101/BB/2018 is disposed of by separate order. Post the case for report of IRP on **08.08.2019.**


MEMBER(T)

Puja


MEMBER(J)

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

I.A.No.345 of 2019 in
C.P.(IB) No.101/BB/2018
U/s 22(3)(b) of IBC, 2016
R/w Rule 11 of the NCLT Rules, 2016

In the matter of:

Canara Bank,
Represented by its Manager
And PA Holder,
Mr. Omnath C.P.
No.112. J.C. Road,
Bangalore -560 002.

- Applicant

Versus

M/s. GCL Private Limited,
Represented by its IRP,
Mr. Shivadutt Bannanje
No.419/420, 10th Main Road,
2nd Stage, Peenya Industrial Estate,
Bangalore - 560 058

- Respondent

Date of Order: 22nd July, 2019

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

Parties/Counsels Present:

For the Applicant : Shri Hemanth R. Rao

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. IA No.345 of 2019 in C.P.(IB)No.101/BB/2018 is filed by Canara Bank, ('Applicant') U/s 22(3)(b) of the IBC, 2016, R/w Rule 11 of the NCLT Rules 2016, by inter alia, seeking to replace Mr. Shivadutt Bannanje, Interim Resolution Professional and appoint Mr. Srikantiah Shivaswamy, Registration No.IBBI/IPA-001/IP-P00411/2017-18/10727 as Resolution Professional in the captioned



proceedings and allow this Application to meet the ends of justice and equity.

2. Brief facts of the case, as mentioned in the application, are as follows:

- 1) C.P.(IB) No.101/BB/2018 is admitted by order dated 01st May, 2019 by inter alia appointing Mr. Shivadutt Bannanjee as IRP, imposing moratorium etc.
- 2) It is stated that the Applicant is a Financial Creditor of the Respondent Company and is a part of the Committee of Creditors with a voting share of 100%. Further, the Applicant being the only Financial Creditor/member of the CoC is duly authorized to file this Application.
- 3) It is stated that the 2nd CoC meeting was held on 08.07.2019, and CoC had decided to replace Mr. Shivadutt Bannanjee and appoint Mr. Srikantiah Shivaswamy, Registration No.IBBI/IPA-001/IP-P00411/2017-18/10727 as a Resolution Professional in the captioned matter. Mr. Srikantiah Shivaswamy has given his consent to act as a Resolution Professional vide FORM AA dated 08.07.2019.
- 4) It is also stated that Canara Bank is the sole Financial Creditor of the Corporate Debtor and hence, the only creditor on the CoC with 100% voting rights. Hence, Mr. Srikantiah Shivaswamy has been unanimously appointed as a Resolution Professional by the CoC.
- 5) Therefore, it is urged the Tribunal to appoint new RP as approved by CoC with requisite majority as per law.

3. Heard Shri Hemanth R. Rao, learned Counsel for the Applicant. We have carefully perused the pleadings of the party and also extant provisions of IBC, 2016.

4. Shri Hemanth R. Rao, the learned counsel for Applicant submits that since CoC in its meeting held on 08.07.2019 had decided to replace

Mr. Shivadutt Bannanjee, the existing IRP and appoint Mr. Srikantiah Shivaswamy as the Resolution Professional, the Tribunal may allow the application as prayed for.

5. The minutes of meeting of 2nd CoC of M/s.GCL Private Limited held on 8th July, 2019, has inter alia resolved as follows with reference to appointment of new RP:

“RESOLVED THAT *Mr. Srikantiah Shivaswamy, Registration No.IBBI/IPA-001/IP-P00411/2017-18/10727, be and is hereby appointed as a Resolution Professional to complete the Corporate Insolvency Resolution Process and the said Professional vide the specified Form AA, has expressed his willingness for the appointment and also certified that there are no disciplinary proceedings pending against him.*

RESOLVED FURTHER THAT *the decision to appoint Mr. Srikantiah Shivaswamy, Registration No.IBBI/IPA-001/IP-P00411/2017-18/10727, shall be submitted to the Hon’ble National Company Law Tribunal (NCLT) for their approval.”*

6. Therefore, we are convinced with reasons cited by the Applicant for replacing existing IRP with that of new Resolution Professional. We are also of prima facie view that the proposed RP is duly qualified to be appointed as IRP and not suffering any disqualification as per written consent to act as RP for the Corporate Debtor. And the Resolution to appoint him is also approved with requisite majority as per Code. Hence, we are inclined to allow the application as prayed for.
7. In the result, by exercising powers conferred under the provisions of U/s 22(3)(b) of the IBC, R/w Rule 11 of the NCLT Rules, 2016, I.A No. 345 of 2019 in C.P(IB) No.101/BB/2018 is disposed of by replacing existing IRP with that of Mr. Srikantiah Shivaswamy, Registration No.IBBI/IPA-001/IP-P00411/2017-18/10727 RP and thus appointed Mr. Srikantiah Shivaswamy as Resolution Professional to conduct

CIRP as per dated 22nd July, 2019 passed in C.P.(IB) No.101/BB/2018 by directing him to immediately take up CIRP without further delay.

- 1) Post the case for report of IRP on **08.08.2019**.


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL


(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL

Puja