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BEFORE THE AJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD

IA 215/2017 in C.P. (I.B) No. 21/10/NCLT/AHM/2017



Coram:

Present: Hon'ble Mr. BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 04.08.2017

Name of the Company: New Tech Forge & Foundry Ltd.
V/s.
State Bank of India

Section of the Companies Act: Section 10 of the Insolvency and Bankruptcy
Code

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	SANGEETA BOHRA	ADVOCATE	Company	
2.	SIDDHARTH SAMAL	ADVOCATE	State Bank of India	

ORDER

Learned Advocate Ms. Sangeeta Bohra i/b Learned Advocate Mr. Rajesh Bohra present for Applicant/ Corporate Debtor/ Original Applicant. Learned Advocate Mr. Siddharth Samal present for Respondent/ Original Respondent (State Bank of India).

Heard arguments of both sides.

This application IA 215/2017 is filed by the corporate applicant/ corporate debtor with request not to consider the objection raised by the Financial Creditor including SBI qua appointment of Mr Arun Kumar Malani as resolution professional.

This Adjudicating Authority while admitting the application filed by the Corporate Applicant appointed Shri Arun Kumar Malani as IRP.

It appears that on 28.06.2017 the first meeting of the creditors^{was} held and in the said meeting none of the creditors have consented for continuation of Mr. Arun Kumar Malani as Resolution Professional.

Learned Counsel appearing for applicant represented that initially corporate applicant proposed the name of Shri Devendra Padamchand Jain and when objected by SBI in his place Shri Arun Kumar Malani was recommended on the ground that Shri Devendra Padamchand Jain appeared for the Corporate Applicant in the meetings of creditors conducted by bank.

Learned Counsel appearing for Applicant further contended that right under section 22 has already exercised by SBI and therefore they have no right to object and for continuation of IRP as RP.

The objection raised by SBI at the time of hearing of CP (IB) no. 21/2017 is not an objection raised by the committee of creditors.

The code expressly ^{gives} provides the right to the committee of creditors either to continue the IRP or to replace the IRP by majority of 75% of vote of creditors. In fact in this case the committee of creditors voted to replace the IRP.

The Code did not either expressly or impliedly give any right to the ~~Applicant~~ corporate Applicant to interfere either in the continuation of IRP or in the replacement of IRP.

Therefore, this application filed by the corporate applicant is mis conceived and not at all maintainable.

Hence, this application is dismissed as not maintainable with an observation that such kind of applications may further result in ~~the~~ delay in the Resolution process already commenced.


BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Dated this the 4th day of August, 2017.