

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, AT HYDERABAD**

CA 197 of 2017
In
CP (IB) No.97/7/HDB/2017
U/s 60 of IBC, 2016

In the matter of

1. MACK Soft Tech Private Limited,
Q City, 6th Floor, Block-A,
Sy.No.109, 110 & 111/2, Nanakramguda Village,
Serilingampally Mandal,
Hyderabad – 500 032Applicant / Respondent
2. Mohd Sabir Parvez
R/o N-76A, Abul Fazal Enclave-1
Okhla, New Delhi – 110025 ... Applicant / Director
of Respondent Company



Versus

1. Quinn Logistics India Private Limited
2nd Floor, SVSKL Mansion
H.No. 3-6-369/A/18
Street No.1, Himmayat Nagar
Hyderabad – 500029 ...Respondent /
Petitioner
2. Mr.Sundresh Bhat
IRP for Mack Soft Tech Pvt. Ltd.
BDO India LLP
Ruby-Level 9, NW Wing
Senapati Bapat Marg Dadar West,
Mumbai- 400028 ... Respondent / IRP

Date of order: 31.01.2018

CORAM:

Hon'ble Shri. Rajeswara Rao Vittanala, Member (Judicial)

Hon'ble Shri. Ravikumar Duraisamy, Member (Technical)

Parties / Counsels present:

For the Applicant/Respondent
(Corporate Debtor):

Mr. Amit Sibal, Sr. Advocate,
with Ms Ferida Satarawala
Chopra Mr. Pervinder,
Advocates

For the Respondent No.1/
Financial Creditor:

Shri Arun Kathpalia, Senior Advocate along with Shri Jayant Mehta, Ms.Shivambika Sinha, Ms Ankita Sinha and Mr M. Ramu Advocates.

Counsel for IRP/
Respondent No.2:

Mr.Joran Diwan, Advocate
Mr.Sundaresh Bhat, IRP (party-in person)

Per: Rajeswara Rao Vittanala, Member (Judicial)

ORDER

1. The Company Application bearing CA No. 197/2017 in CP (IB) No. 97/7/HDB/2017, is filed by Macksoft Tech Private Limited, U/s 60 of Insolvency and Bankruptcy Code 2016, by inter-alia seeking to direct the CoC be reconstituted with Quinn Finance Unlimited Company excluded from the Committee of Creditors (CoC); restrain the IRP from issuing notice or conducting any meeting of the CoC pending the final disposal of the present Application, etc.
2. Heard Shri Amit Sibal, Learned Senior Counsel along with Ms.Ferida Chopra Satarawala and Shri Pervinder, Learned Counsels for Mack Soft Tech Private Limited (Applicant), Shri Arun Kathpalia, Learned Senior Counsel along with Shri Jayant Mehta, Ms Shivambika Sinha, Shri Ramu, Ms. Ankita Sinha, Learned Counsels for Quinn Logistics India Private Limited; Shri Joran Diwan, Learned Counsel and Shri Sundaresh Bhat, Learned IRP.
3. Shri Amit Sibal, Learned Senior Counsel for Mack Soft Tech Private Limited has concluded his arguments. Shri Arun Kathpalia, Learned Senior Counsel for Quinn Logistics India Private Limited is yet to conclude his



arguments and requested further time to conclude the same.

4. Shri Amit Sibal, Learned Senior Counsel for the Applicant submit that there should not be any continuation of CIRP since the issue to continue Quinn Finance Unlimited Company is yet to be decided, which is the core issue to be decided in the case. He, therefore, inter-alia submit that even though the Resolution Professional is appointed, he should not be permitted to continue the process, till the issue raised in the present application is decided by the Tribunal.
5. Shri Arun Kathpalia, Learned Senior Counsel for Quinn Logistics India Private Limited, on the other hand, has strongly opposed passing of any interim order interfering with the process of CIRP in question as it would be against the object of the Act, and the law as decided by various Tribunals including Hon'ble NCLAT. It is urged that CIRP in question may be continued without any interruption and the Tribunal may make all actions taken by the new Resolution Professional would be subject to the result of the Company Application. It is further submitted that the original time of 180 days as permitted by the Code is already lapsed, and further extension of time is also going to be lapsed, and thus, there would no justification to pass any further interim orders at this juncture. .
6. Earlier this Tribunal has allowed Company Application bearing CA No,17 of 2018 by appointing Mr. Mohan Lal Jain as Resolution Professional in the place of existing IRP Shri Sundaresh Bhat, and the same was confirmed by the IBBI vide their letter No. IBBI/IP/REP/NCLT/HYD/2017/13H/263/115 dated 29.01.2018. This Tribunal has finally disposed CA No.



17 of 2018. However, he is yet to take charge in CIRP in question. Since the process of CIRP should not be interrupted by virtue of various proceedings pending before this Tribunal and Hon'ble NCLAT, the Tribunal passed various interim orders. In order to see that the core issue raised in the instant Company application required to be resolved before permitting regular CIRP in question, it is necessary to pass the interim orders, in the interest of justice, pending finalization of the issue raised in the present Company Application. Accordingly, the following interim orders are passed :

- (a) Hereby permitted Shri Mohan Lal Jain, the new Resolution Professional to take charge of CIRP in question. However, he cannot convene CoC meetings till the next date of hearing, which is further subject to any orders to be passed by the Hon'ble NCLAT in the pending case, in the meanwhile;
- (b) Both the parties are directed to get ready to argue the case finally on the next date of hearing and we will not grant any further time. Post case on 27.02.2018 for final hearing.



Sd/-
RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

Sd/-
RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

Sd/- Anandha Subramanian
for Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER... CA 197 of 2017 in CP (IB) 10
निर्णय का तारीख
DATE OF JUDGEMENT..... 31/12/2018
प्रति तैयार किया गया तारीख
COPY MADE READY ON..... 13/12/2018