

**NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH**

**CA No.148/2017
In
CP (IB) No. 37/Chd/Pb/2017**

Hero Steels Ltd. ...Petitioner/Operational Creditor
Vs.
Rolex Cycles Pvt.Ltd. ...Respondent/Corporate Debtor

Present: Mr.G.S.Sarin, with Mr.P.D.Sharma, Practicing Company Secretaries for petitioner
Mr.Anil Kumar, Resolution Professional
Mr.Yogesh Kumar, Advocate along with
Mr. Manmohan, Chief Manager for Canara Bank
Mr.Nitish Saxena, Law Officer, Bank of Maharashtra
Mr.D.K.Mahajan, Chief Manager, Bank of Maharashtra
Mr.Vikas Rai Bery, Practicing Company Secretary for
Mr.Ashwini Kumar Prabhakar, Intervener.
Mr.Ashwini Kumar Prabhakar, Intervener and Mr.R.K.Kapoor, CA in person

In compliance with the directions contained in the order dated 08.9.2017 in CA No.122/2017, 123/2017 and 124/2017, Mr.Manmohan Sarin, Chief Manager, Canara Bank; Mr. Nitish Saxena, Law Officer, Bank of Maharashtra; Mr. D.K.Mahajan, Chief Manager, Bank of Maharashtra; Mr. Ashwini Kumar Prabhakar, Director of the company which is undergoing the resolution process; and Mr.R.K.Kapoor, CA are present.

CA No.148/2017 has been filed by Canara Bank through counsel proposing the name of Mr. Nipan Bansal as Resolution Professional. Along with this application the written communication in Form No.2 Annexure A-4 furnished by the proposed Resolution Professional has also been filed which is found in order. Admittedly, Canara Bank is the Lead Bank amongst the financial creditors of the corporate debtor.

It has been brought to the notice by both the parties that vide order dated 22.09.2017 in the Company Appeal (AT) (Insolvency) No.198 of 2017 the Hon'ble Company Law Appellate Tribunal, against the order dated 08.09.2017 in CA No.122,123 and 124 of 2017 in CP (IB)No.37/Chd/Pb/2017 of this Tribunal has held as under: -

"In view of the aforesaid provision, we are of the view that the Adjudicating Authority is duty bound to consider the name of another 'Resolution Professional', if proposed by the Committee of Creditors or may call for name from the 'Insolvency and Bankruptcy Board of India', if no name has been proposed. We hope and trust that the Adjudicating Authority will act in accordance with law, as quoted above, and pass appropriate order on the next date of hearing.

Till appropriate order in this regard is passed by the Adjudicating Authority, the Adjudicating Authority will not give effect to the impugned order and directions to the extent it is against the provisions of 'I&B Code'. However, till the regular 'Insolvency Resolution Professional' is appointed, the Interim Resolution Professional may be asked to perform the day to day routine work, strictly in accordance with the provisions of the 'I&B Code'."

I have heard the learned counsel for the Bank and other parties present including the Interim Resolution Professional. Admittedly, in the meeting of Committee of Creditors held on 02.09.2017 by e-voting, the name of Resolution Professional was not proposed. However, the resolution to confirm the Interim Resolution Professional as Resolution Professional was rejected.

Therefore, in view of the directions of the Hon'ble National Company Law Appellate Tribunal, the matter be referred to the Insolvency and Bankruptcy Board of India for proposing the name of Resolution Professional to function as such within a period of 10 days from the receipt of communication. Copy of Form No.2 and

the written communication furnished by Mr.Nipan Bansal with IBBI Registration No. IBBI/IPA-001/IP-P00039/2016-17/10100 be also sent.

List the matter on 05.10.2017 for awaiting recommendation from the IBBI. Copy of this order be also sent to the IBBI along with communication to be sent from this Tribunal by the Registry. In the meanwhile, as directed by the Hon'ble Appellate Tribunal, the Interim Resolution Professional Mr. Anil Kumar is directed to perform the day-to-day routine work, strictly in accordance with the provisions of Insolvency and Bankruptcy Code, 2016.

Learned counsel for the Bank submits that the issue with regard to the payment of outstanding dues to the Interim Resolution Professional would be sorted out.

The Chief Manager of the Bank has also filed reply in response to the notice served upon him and the applicant-IRP seeks time to file reply. Let the same be filed by 29.9.2017.

Sd/-

(Justice R.P.Nagrath)
Member (Judicial)

September 25, 2017
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