

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

IA No.143/2019 in
C.P(IB)No.06/BB/2018
U/s 27 & 60(5) of IBC, 2016

The Committee of Creditors

Rep. by Shri Yogendra Singh
Authorised Representative of the Committee of Creditors.
S/o. Jiledar D Singh
Reliance Centre, 7th Floor,
South Wing, Off Western Express Highway,
Santacruz (East),
Mumbai – 400 055. - Applicant

In the matter of:

M/s. Reliance Nippon Life Asset Management Limited & Anr.

Reliance Centre, 7th Floor,
South Wing, Off Western Express Highway,
Prabhat Colony, Santacruz (East),
Mumbai – 400 055. - Petitioner/Financial Creditor

Versus

M/s. BCIL Red Earth Developers India Pvt. Ltd.,

BDO Restructuring Advisory LLP
Level 9, The Ruby, Noth West Wing,
Senapati Bapat Marg, Dadar (W),
Mumbai – 400028. - Respondent/Corporate Debtor

Date of Order: 01st April, 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 H.N.Vasudevan



For the Petitioner/Financial Creditor : Shri B.S. Vivek,
For BCIL/Respondent : Shri Sanket M Yenagi
For the Respondent/RP : Smt. Nidhi Seksaria, RP
along with
Shri C.K.Nandakumar,
Shri Varun.S

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. I.A No.143 of 2019 in C.P(IB)No.06/BB/2018 is filed by Committee of Creditors ("CoC"), representing by Shri Yogendra Singh, U/s 27 and 60(5) of the IBC, 2016, by inter alia seeking to appoint Shri Amit Shah (IBBI Registration No.IBBI/IPA-001/IP-P00821/2017-18/11397) in place of Mrs. Nidhi Seksaria (IBBI Registration No.IBBI/IPA-001/IP-P00866/2017-2018/11464) as the Resolution Professional in the Corporate Insolvency Resolution Process of the Corporate Debtor, M/s. BCIL Red Earth Developers India Pvt. Ltd in accordance with Section 27 of the IBC, 2016 etc.
2. Brief facts of the case, as mentioned in the Application, are as follows:
 - 1) The Company Petition for initiating CIRP process of Corporate Debtors filed by M/s. Reliance Nippon Life Asset Management Limited & Anr was admitted by the Tribunal vide order dated August 9, 2018 (received by the Resolution Professional on August 11, 2018) ("Order") and Mrs. Nidhi Seksaria (IBBI Registration No. IBBI/IPA-001/IP-P00866/2017-2018/11464) was appointed as the Interim Resolution Professional.
 - 2) The Applicant commenced proceedings as per the Regulation of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("CIRP Regulations"). The Hon'ble Tribunal

Regulations, 2016 ("CIRP Regulations"). The Hon'ble Tribunal vide its order dated January 31, 2019 extended CIRP of the Corporate Debtor by further 90 days beyond 180 days starting from February 5, 2019 upon an application filed the Resolution Professional U/s 12 of the Code read with Regulation 40 of the CIRP Regulations.

- 3) In terms of Section 22(2) of the Code the CoC in its first meeting held on 100%, voted upon the following resolution for appointment of Mrs. Nidhi Seksaria (IBBI Registration No. IBBI/IPA-001/IP-P00866/2017-2018/11464) as the Resolution Professional in the CIRP of the Corporate Debtor ("Resolution for appointment of the Resolution Professional").
- 4) Pursuant to email dated 15th February 2019, due to personal/family reasons, the Resolution Professional has tendered her resignation as Resolution Professional in the CIRP of the Corporate Debtor for acceptance/approval of the CoC, subject to the provisions of Section 27 and other relevant Sections of the Code and the regulations there under.
- 5) Thereafter at the Seventh meeting of the CoC held on 19th February 2019, the following resolution for replacement of Mrs. Nidhi Seksaria (IBBI Registration No. IBBI/IPA-001/IP-P00866/2017-2018/11464) with Mr. Amit Shah (IBBI Registration No. IBBI/IPA-001/IP-P00821/2017-18/11397) as the resolution professional in the CIRP of the Corporate Debtor ("Resolution for replacement of the Resolution Professional") was voted upon by the CoC:

"RESOLVED THAT pursuant to Section 16, Section 22 and Section 27 and any other applicable provisions of the Insolvency and Bankruptcy Code, 2016 read with rules and regulations



made there under, approval of the Committee of Creditors hereby accorded to replace Mrs. Nidhi Seksaria No. IBBI/IPA-001/IP-P00866/2017-2018/11464), the Resolution Professional of BCIL Red Earth Developers India Private Limited with Mr. Amit Shah (IBBI Registration No. IBBI/IPA-001/IP-P00821/2017-2018/11397) as the Resolution Professional of BCIL Red Earth Developers India Private Limited.

RESOLVED FURTHER THAT the Committee of Creditors hereby authorise Reliance Nippon Life Asset Management Ltd ("Applicant") through its authorised representatives and/or Counsels, to intimate/forward the name of Mr. Amit Shah (IBBI Registration No. IBBI/IPA-001/IP-P00821/2017-18/11397) as the proposed Resolution Professional of BCIL Red Earth Developers India Private Limited. to the Hon'ble Adjudicating Authority i.e. the Hon'ble National Company law Tribunal, Bangalore.

RESOLVED FURTHER THAT Applicant through its authorised representatives and/or Counsels be and is hereby authorised to take such steps as may be necessary in relation to the above, if required and to settle all matters arising out of and incidental thereto and sign and execute all documents and writings that may be required and generally to do all acts, deeds and things that may be necessary, proper, expedite or incidental for the purpose of giving effect to the aforesaid Resolution."

3. Heard Shri H.N.Vasudevan, learned Counsel for Applicant and Shri Sanket M Yenagi for BCIL/Respondent, Shri Vivek B.S, learned Counsel for Petitioner/Financial Creditor and Shri C.K.Nanda Kumar along with Shri Varun.S learned Counsels for RP, Mrs. Nidhi



Seksaria Resolution Professional. We have carefully perused the pleadings of the parties and also extant provisions of IBC, 2016.

4. On perusal of the Application, the Application is filed in accordance with law and Shri Amit Chandrakant Shah, proposed Resolution Professional, has filed a written consent dated 15.02.2019, by inter alia declaring that he has registered with the Board as an Insolvency Professional; he is not subject to any disciplinary proceedings initiated by the Board or the Insolvency Professional Agency; he does not suffer from any disability to act as Resolution Professional; he is eligible to be appointed as Resolution Professional of the Corporate Debtor under Regulation 3 and other applicable provisions of the Code and Regulations; he shall make the disclosures in accordance with the Code of conduct for Insolvency Professional as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016. He has also filed an Affidavit dated 16.03.2019, by inter alia declaring that he is an Insolvency Professional bearing IBBI Registration No. IBBI/IPA-001/IP-P00821/2017-2018/11397 (RP), proposed by the Committee of Creditors (CoC) to be appointed in place of Mrs. Nidhi Seksaria in the above proceedings. He is well conversant with the facts of the case and hence he is swearing to this Affidavit and also stated that the CoC in its meeting held on 19.02.2019 resolved to appoint him as Resolution Professional in the above matter. Accordingly provided his written consent in Form AA and the same is filed along with the Application.
5. Therefore, we are of the prima facie opinion that Shri Amit Chandrakant Shah, Regn. No. IBBI/IPA-001/IP-P00821/2017-2018/11397 is provisionally qualified to be appointed as Resolution



Professional in the place of existing RP, to continue the CIRP process.


6. In the result, by exercising powers conferred under the provisions of U/s 27 of the IBC, 2016, I.A No. 143 of 2019 in C.P(IB) No.06/BB/2018 is disposed of with the following directions:

- 1) We hereby appointed Shri Amit Chandrakant Shah, Regn. No.IBBI/IPA-001/IP-P00821/2017-18/11397 as Resolution Professional in respect of the Corporate Debtor.
- 2) We hereby directed Resolution Professional to conduct and complete Corporate Insolvency Resolution Process well before the extended time period granted by the Tribunal, as per order dated 31st January, 2019 passed in I.A.No.42 of 2019 in CP(IB)No.06/BB/2018, by strictly adhering to the time schedule.

7. Post the CP(IB)No.06/BB/2018 on **22.04.2019**.



(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL



(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL

Shruthi