

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH
COURT - IV**

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IA-1533/2020
IN
CP(IB)-4663/(MB)/2018

CORAM :

SHRI RAJASEKHAR V.K.
MEMBER (J)

SHRI RAJESH SHARMA
MEMBER (T)

ORDER SHEET OF THE HEARING HELD ON **26.10.2020**

Name of the Parties: Union Bank of India in the Matter
 of Aviaxpert Pvt Ltd
 V/s.
 Sovika Aviation Services Pvt Ltd

SECTION 22 (3) (b) OF INSOLVENCY & BANKRUPTCY CODE, 2016

ORDER

The Court convened through Video Conference.

I.A No. 1533/2020

1. This is an application filed by Union Bank of India this sole constituent of the Committee of Creditors of Sovika Aviation Services Pvt Ltd under section 22 (3) (b) of Insolvency and Bankruptcy Code seeking to replace the Interim Resolution Process (Mr. Jagdish Ahuja with Mr. Bijendra Kumar Jha) as Resolution Professional (RP) of the Corporate Debtor.
2. Mr. Nausher Kohli a/w Mr. Akhil Sarathy i/b Thodur Law Associates present on behalf of the Applicant/ CoC. Mr. Jagdish Ahuja, IRP present in person. Ms. Samrudhi Chothani, i/b M/s Vashi & Vashi, Ld. Counsel present on behalf of the Corporate Debtor. Mr. Rahul Jain, i/b Alpha Chambers. Ld. Counsel present on behalf of the Operational Creditor.

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3. The present Application was considered at the hearings held on 29.09.2020 and 06.10.2020. On 29.09.2020 this Bench noted that there was an application bearing **I.A. No. 1130/2020 IN C.P 4633/2018** filed by the Operational Creditor directly, seeking withdrawal of the CIRP initiated against the Corporate Debtor, without routing the application through the IRP appointed in the matter. Therefore, this Bench dismissed that application with liberty to the parties to file a fresh application in accordance with law. Mr. Jagdish Ahuja, IRP submits that the CoC was duly constituted on 08.08.2020 by which date he did not have any application for withdrawal of the CIRP in terms of section 12 (a) of the Court.
4. Mr. Nausher Kohli, Ld. Counsel for the Applicant/ CoC submits that in terms of the judgment of Hon'ble NCLAT in K C Sanjeev Vs. Solar Offset Printer Pvt Ltd (Company Appeal (AT) (Insolvency) No. 1427/2019) dated 28.02.2020, the relevant date for considering withdrawal of CIRP is the date of the application and nothing else. He further relied on paras 79 & 80 of the judgment of the Hon'ble Supreme Court in Swiss Ribbons (P) Ltd. Vs. Union Bank of India (2019) 4 SCC 17 to submit that the word of the CoC is not final and that Adjudicating Authority is free to take a view as regards withdrawal after considering all relevant circumstances.
5. The Bench has considered the matter in its entirety and perused the record. We have also heard Ld. Counsel appearing for the CoC, the Operational Creditor and the Corporate Debtor and also the IRP present in person.
6. It is seen from the record that at the second meeting of the CoC on 02.09.2020, it has been resolved to appoint Mr. Bijendra Kumar Jha as the RP of the Corporate Debtor in place of Mr. Jagdish Ahuja IRP. The Resolution has been passed with 100% voting share.

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7. Accordingly, this Adjudicating Authority hereby grants approval for the appointment of Mr. Bijendra Kumar Jha (Registration IBBI/IPA-P00712/2017-18/11227) as Resolution Professional (RP) of Sovika Aviation Services Pvt Ltd, the Corporate Debtor.
8. Further, the fee and expenses of the IRP shall be paid in full by the Committee of Creditors within a period of one week from today. The IRP is directed to handover the charge of the Corporate Debtor, as well as the assets, books and other documents in his possession to the RP immediately. The Applicant/ CoC is also directed to communicate the copy of this order to the RP immediately so as to enable him to take charge of the Corporate Debtor and Its Books and Assets.
9. **I.A No. 1533/ 2020** is disposed of accordingly.

Sd/-

RAJESH SHARMA
Member (Technical)
26.10.2020

Sd/-

RAJASEKHAR V.K.
Member (Judicial)