

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
(Video Conference)**

**PRESENT: JUSTICE TELAPROLU RAJANI – MEMBER JUDICIAL
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 10.05.2022 AT 10.30 AM**

TC/CP. Nos.	CA/IA No.	Section/ Rule	Name of Parties
TCP(IB)No.76/9/AMR/2019	IA(IBC)/78/2022, IA(IBC)/79/2022	19 of IBC	Immaneni Eswara Rao (IRP of Empee Sugars and Chemicals Limited) Vs. Suresh Raj Madhok & 3 others

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

IA (IBC) No.79/2022:

This application is filed seeking to appoint one Mr.Pankaj Srivastava as Resolution Professional (RP) in the place of the Interim Resolution Professional (IRP) by name Mr.Immaneni Eswara Rao.

The facts as reflected in the Application are that:

Committee of Creditors in the first meeting have decided with 85.32% voting share to appoint Mr.Pankaj Srivastava as RP in the place of Mr.Immaneni Eswara Rao (IRP) and the Proposed Resolution Professional (RP) has given consent. The relevant Sections 22 & 27 are extracted hereunder:

Section 22 of IBC: Appointment of resolution professional. –

- (1) *The first meeting of the committee of creditors shall be held within seven days of the constitution of the committee of creditors.*
- (2) *The committee of creditors, may, in the first meeting, by a majority vote of not less than [sixty-six] per cent of the voting share of the financial creditors, either resolve to appoint the interim resolution professional as a resolution professional or to replace the interim resolution professional by another resolution professional.*
- 3) *Where the committee of creditors resolves under sub-section (2)-*

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- (a) *to continue the interim resolution professional as resolution professional [subject to a written consent from the interim resolution professional in the specified form], it shall communicate its decision to the interim resolution professional, the corporate debtor and the Adjudicating Authority; or*
- (b) *to replace the interim resolution professional, it shall file an application before the Adjudicating Authority for the appointment of the proposed resolution professional [along with a written consent from the proposed resolution professional in the specified form].*
- (4) *The Adjudicating Authority shall forward the name of the resolution professional proposed under clause (b) of sub-section (3) to the Board for its confirmation and shall make such appointment after confirmation by the Board.*
- (5) *Where the Board does not confirm the name of the proposed resolution professional within ten days of the receipt of the name of the proposed resolution professional, the Adjudicating Authority shall, by order, direct the interim resolution professional to continue to function as the resolution professional until such time as the Board confirms the appointment of the proposed resolution professional.*

Section 27: Replacement of resolution professional by committee of creditors;

- (1) *Where, at any time during the corporate insolvency resolution process, the committee of creditors is of the opinion that a resolution professional appointed under section 22 is required to be replaced, it may replace him with another resolution professional in the manner provided under this section.*
- (2) *The committee of creditors may, at a meeting, by a vote of sixty-six per cent. of voting shares, resolve to replace the resolution professional appointed under section 22 with another resolution professional, subject to a written consent from the proposed resolution professional in the specified form.*

Since, there is a resolution from the CoC with 85.32% voting for change of IRP, there is no reason for not allowing this application. Hence, this Application is allowed, Mr.Pankaj Srivastava appointed as Resolution Professional in the place of Mr.Immaneni Eswara Rao, IRP.

IA (IBC) No.78/2022:

Since, this Tribunal permitted change of IRP by virtue of orders dated 10.05.2022 in IA (IBC) No.79/2022, this Application becomes infructuous as it is filed by the erstwhile IRP.

Sd/-

**JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL**