

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI**

IA/286/CHE/2021 IN IA/287/CHE/2021 IN CA/1/IB/2017
Under Section 22(3)(b) of the Insolvency And Bankruptcy Code, 2016
r/w Regulation 47A of the IBBI (Liquidation Process) Regulations, 2016
and Rule 11 of the National Company Law Tribunal Rules, 2016

And

IA/287/CHE/2021 IN CA/1/IB/2017
Under Section 22(3)(b) of the Insolvency And Bankruptcy Code, 2016

In the matter of **Committee of Creditors for Vasam Health Care Private Limited**

Committee of Creditors
For Vasam Health Care Private Limited (Under CIRP)
Rep. by Union Bank of India.

... Applicant

Order Pronounced on 12th April, 2021

CORAM :

R. VARADHARAJAN, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)

For Applicant : Yajura Devi, Advocate

ORDER

***Per:* R. VARADHARAJAN, MEMBER (JUDICIAL)**

1. This is Application filed under Section 12(3)(b) of the Insolvency & Bankruptcy Code, 2016 (**IBC, 2016**) on behalf of the CoC of Vasam Health Care Private Limited by Union Bank of India which is under the Corporate Insolvency Resolution Process (CIRP) seeking for the following reliefs: -

- a. *Appoint Mr. S.Rajendran having IBBI Registration No. IBBI/IPA-002/IP-N00098/2017-2018/10241 and Authorisation for Assignment valid upto 10.12.2021 as the Resolution Professional of the above referred Corporate Debtor in accordance with Section 22 of the Insolvency and Bankruptcy Code, 2016 and / or;*
- b. *Pass such other orders this Hon'ble Bench may deem fit and proper.*

2. It is averred in the Application that the CIRP of the Corporate Debtor was initiated by this Tribunal vide Order dated 21.04.2017. At the time of initiation of the CIRP of the Corporate Debtor at the instance of an Operational Creditor viz., M/s. Alcon Laboratories (India) Private Limited under Section 9 of the IBC 2016, one Mr. V.Mahesh having Reg. No. IBBI/IPA/002/IP-00215/2016-17/1930 was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor. However, the Order passed by this Tribunal initiating the CIRP was stayed by the Hon'ble High Court of Madras on 02.05.2017 and ultimately the stay was vacated on 05.09.2019.

3. Based on the representation of the IRP, this Tribunal had revived the CIRP which was commenced vide its Order dated 21.04.2017 and thereafter the initial extended period of CIRP of the Corporate Debtor ended on 28.12.2020 as per the

Order of this Bench dated 06.08.2020. Again, this Bench, in view of the Application filed by the IRP in IA/56/2020 vide Order dated 26.02.2021 under the circumstances stated therein extended the period of CIRP upto 31.05.2021.

4. In the meanwhile, in the 11th meeting of the CoC held on 12.03.2021 the CoC has resolved with the voting share of 90% to replace the existing IRP viz., Mr. V.Mahesh in accordance with Section 22 of the IBC, 2016 with one Mr.S.Rajendran, a registered Insolvency Professional having Reg. No. IBBI/IPA-002/IP-N00098/2017-2018/10241. In the circumstances, this Application has been filed before this Tribunal seeking for the reliefs as extracted in the paragraph supra.

5. Correlating with the above averments, it is seen from the typed set of documents that the Orders passed by this Tribunal have been duly enclosed. Further the minutes of the 11th CoC meeting dated 12.03.2021 in relation to the Corporate Debtor wherein the Resolution for change / replacement of the IRP has also been filed as available at page Nos. 23 to 30 of the typed set filed along with the Application.

6. The Written Consent in Form AA as prescribed under the Regulation framed by the Insolvency Board of India (Insolvency Resolution Process for Corporate Persons), Regulations, 2016 has also been annexed (page Nos. 31 & 32) from which it is evident that the incoming RP has been handling four resolution process of the other Corporate Debtor(s) and three liquidation process for those companies under liquidation.
7. The Authorisation for Assignment (AFA) in Form-B issued by the Institute of Insolvency Professionals (ICSI) has also been annexed. Perusal of the AFA shows that the authorisation is valid upto 10.12.2021.
8. In view of the CIRP period expiring on 31.05.2021 an Application in IA/286/Che/2021 has also been moved seeking for urgent listing of the main Application and in view of the averments contained therein, the said Application is **allowed**.
9. In relation to Application seeking for change of IRP to RP proposed, we are persuaded by the decision of the Hon'ble NCLAT in the matter of ***Bank of India -vs- M/s. Nithin Nutritions Pvt. Ltd in Company Appeal (AT) (Ins) No.***

497 of 2020 wherein the Hon'ble NCLAT has held that there is no bar in the CoC to change the IRP even in a subsequent meeting proposed and that the CoC has the requisite powers to propose change and also there is no requirement that a particular reason is given seeking for the change.

10. In the circumstances, Mr. S.Rajendran the proposed RP is appointed as the RP of the Corporate Debtor viz., Vasan Health Care Private Limited.

11. Copy of this Order shall be duly communicated to the IBBI by the Registry of this Tribunal forthwith in terms of Section 22(4) of the IBC, 2016 for its confirmation for which purpose this matter be posted on **23.04.2021**. In the meanwhile, the present IRP will continue to act as such in the matter of Corporate Debtor in relation to its affairs till the RP proposed by CoC and appointed by this Tribunal is confirmed by the IBBI.

-Sd-
ANIL KUMAR B
MEMBER (TECHNICAL)

-Sd-
R. VARADHARAJAN
MEMBER (JUDICIAL)

MS/Raymond