

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
VC AND PHYSICAL (HYBRID) MODE
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
12-02-2024 AT 10:30 AM**

IA (IBC) 250/2024 in Company Petition IB/153/2021
u/s. 7 of IBC, 2016

IN THE MATTER OF:

Pridhvi Asset Reconstruction and
Securitisation Company Ltd

...Financial Creditor

VS

Sri Pavana Keerthi Hotels India Pvt Ltd

...Corporate Debtor

C O R A M:-

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

ORDER

IA(IBC) 250/2024

Learned Counsel Mr. Ch Srinivasulu, for applicant present through Video Conference. Orders pronounced. In the result, **interim injunction granted**. For notice and counter, call on 13.03.2024, along with the main company petition.

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)

**THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - I, HYDERABAD**

**I.A. No. 250 of 2024
C.P. (IB) No.153/7/HDB/2021**

Under Section 60(5) of The Insolvency and
Bankruptcy Code, 2016 read with Rule 11 of
NCLT Rules, 2016

IN THE MATTER OF:

Pridhvi Asset Reconstruction and Securitisation
Company Limited

...Financial Creditor

And

M/s. Sri Pavana Keerthi Hotels India Private Limited

...Corporate Debtor

BETWEEN:

M/s. Sri Pavana Keerthi Hotels India Private Limited
Rep by its Resolution Professional Gunturu Raghu Babu,
1st Floor, Golden Heights, Plot No.9,
Opp: Raheja IT Mindspace, HUDA Techno Enclave,
Madhapur, Hyderabad-500081 (Telangana)

...Applicant

And

**The Commissioner,
Greater Hyderabad Municipal corporation,
CC Complex, Tank Bund Road,
Lower Tank Bund, Hyderabad – 500 063**

...Respondent

Date of Order: 12.02.2024

Coram:

DR. VENKATA RAMAKRISHNA BADARINATH NANDULA
HON'BLE MEMBER (JUDICIAL)
SHRI CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)

Parties/Counsels present:

For Applicant : Mr. Ch. Srinivasulu, Ld. Counsel
Mr. Raghu Babu Gunturu, Resolution Professional
For Respondent : NA

PER BENCH

ORDER

1. This is an application filed by Mr. Gunturu Raghu Babu, Resolution Professional (Applicant) of M/s. Sri Pavana Keerthi Hotels India Private Limited (Corporate Debtor) under Section 60(5) of The Insolvency and Bankruptcy Code, 2016 (IBC) read with Rule 11 of NCLT Rules, 2016 seeking the following reliefs against Greater Hyderabad Municipal Corporation represented by its Commissioner (Respondent):

- a) Grant Ad-interim injunction or stay against the coercive steps that the Respondent Authority proposed to initiate including seize/seal of the Hotel premises situated at H.No.3-6-552 to 558, 558/1, Himayathnagar, Hyderabad.
- b) Direct the Respondent Authority to lodge the claim for Rs.12,24,704/-with Resolution Professional towards arrears of taxes

for the period upto CIRP Admission order dated 11.04.2022 payable by Corporate Debtor.

c) Direct the Respondent to permit the Resolution Professional/Applicant to accept the arrears of Tax subsequent to passing of CIRP Admission Order dated 11.04.2022 in monthly instalments.

2. The Corporate Debtor was admitted into Corporate Insolvency Resolution Process (CIRP) by this Tribunal vide order dated 11.04.2022 in a Petition vide C.P.No. IB/153/7/2021 filed by M/s. Pridhvi Asset Reconstruction and Securitisation Company Limited (Financial Creditor) and appointed the Applicant herein as Resolution Professional of the Corporate Debtor. The Applicant was confirmed as Resolution Professional by the Committee of Creditors (CoC) of the Corporate Debtor on 11.05.2022. Accordingly, the Applicant took into his control a hotel belonging to the Corporate Debtor at H.No.3-6-552 to 558, 558/1, Himayathnagar, Hyderabad (Hotel).

3. During the CIRP, the Respondent Authority through their jurisdictional bill collector of Amberpet Circle No.16 got issued a demand notice dated 10.11.2022 to the Corporate Debtor (Annexure B) and asked for various documents. That the Respondent Authority also informed the Corporate Debtor that it is running the Hotel without obtaining/renewing the trade license for the past five years and thus violated the rules and Regulations

of GHMC Under Section 521 of GHMC Act. That in case of default of payment of arrears and non-providing of information, appropriate action would be taken under Section 622 of the GHMC Act.

4. The Applicant herein also obtained the earlier notices issued by the Respondent Authority in regard to the Hotel and ascertained the details of the arrears of tax to be paid by the Corporate Debtor (Annexure C). That as per the calculations made by the Applicant, the total arrears of tax to be paid by the Corporate Debtor to the Respondent Authority stands at Rs.38,54,691/-. Out of this, the arrears of Rs.12,24,704/- pertains to CIRP period and arrears of Rs.26,29,987/- pertains to pre-CIRP period (Annexure E).

5. The Applicant herein on 26.12.2022 asked the Respondent Authority to lodge their claim as per IBC before the Applicant (Annexure D). But the Respondent Authority failed to lodge the claim regarding the arrears of tax to be paid by the Corporate Debtor pertaining to the pre-CIRP period of Corporate Debtor i.e. prior to 11.04.2022. With respect to the payment of arrears during CIRP period, the Applicant on 30.12.2023 sought permission from the Respondent Authority to make partial payments/payment in instalments, as the occupancy of the Hotel is not in

full. That the Respondent Authority informed the Applicant that unless the old arrears of tax are not cleared, the taxes for the CIRP period will not be accepted by the software of the Respondent Authority. That the Respondent Authority has indicated their intention to cease and seal the Hotel if the arrears are not fully paid within the stipulated period.

6. We heard, resolution professional and perused the application filed by the applicant. It was observed during hearing that the tax demand receipts issued by the Respondent Authority (Annexure C) are in the name of M/s. Maheshwari Megaventures Ltd. Resolution professional / Applicant filed an affidavit to this extent stating that the Hotel was acquired by the Corporate Debtor by way of a sale deed vide Document No. 1184 of 2014 dated 31.10.2014 on the file of Sub-Registrar, Bowenpally executed by M/s.Maheshwari Megaventures Ltd. But the name of the Corporate Debtor was not mutated in the tax bills issued by the Respondent Authority and that these bills show the name as M/s. Maheshwari Megaventures, but the property mentioned in the bill pertains to the Hotel of the Corporate Debtor.

7. The Corporate Debtor herein was admitted into CIRP on 11.04.2022 and a moratorium under Section 14 of IBC was declared . The demand

made by the respondent includes arrears of tax for Pre -CIRP period and also tax dues accrued during the CIRP period. But , as per IBC statute, a demand cannot be made by the Respondent Authority demanding the arrears of tax pertaining to the Pre-CIRP period to be cleared by way of a demand notice as in the present case. The statute i.e., IBC has provided remedies by way of right to lodge the claims of any person against the Corporate Debtor before the Resolution Professional. As the Respondent Authority stands in a position of statutory creditor in lieu of non-payment of tax arrears pertaining to pre-CIRP period, it too has this right to claim the arrears of tax for the pre-CIRP period of Corporate Debtor. The mode to be adopted by the Respondent Authority is to lodge its claim before the Applicant. But, the Respondent Authority failed to do so even after being informed by the Applicant . But, Government Authority are authorized to raise demand for the property tax of the Corporate Debtor during the CIRP period even after moratorium being in place and it is the duty of the Resolution Professional (the Applicant herein) to remit the taxes accrued during the CIRP period. In the case herein, the liability to remit the taxes is also not denied by the Applicant. The only plea of the Applicant is that as the occupancy of the Hotel is less, it is generating less income and an

allowance may be given to the Applicant to remit these taxes of CIRP period arrears in monthly instalments.

8. In the background of the above facts and keeping in view that for smooth conduct of CIRP of Corporate persons, it is must to keep the Corporate Debtor as a running enterprise, we are satisfied that the Applicant has made out a *prima facie* case. Hence, we hereby grant an *interim injunction* restraining:

(i). The Respondent Authority from acting in pursuance of the notice issued under Section 521 & 622 (4) HMC Act, 1955 dated 10.11.2022 vide Book No.912 & Sl.No. 91115, Circle 16, Amberpet in the name of M/s. Sri Pavan Keerthi Hotels India Pvt Ltd at Premises No. 3-6-552 to 558, 558/1 of Amberpet Circle issued to the Applicant/Corporate Debtor till 30.09.2024.

(ii). The Applicant is directed to pay the arrears of CIRP period amounting to Rs.12,24,704/- in 6 equal monthly instalments. i.e. on or before 30.09.2024 and the respondent is directed to accept the same.

(iii). The Applicant shall *continue* to pay the current tax on due dates; and

(iv). The Respondent is given a liberty to lodge its claim of arrears of tax pertaining to pre-CIRP period within 15 days of the date of receipt of this order and delay if any in lodgement of claim is condoned hereby and applicant is directed to receive the claim and deal with it as per law.

Let the petitioner take notice of this petition to the respondent within three days from the date of this order and file proof of service well before next hearing date. In the meanwhile, counter if any of the respondent shall, be filed.

Sd/-

Charan Singh
Member Technical

Sd/-

Dr. Venkata Ramakrishna Badarinath Nandula
Member Judicial

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