

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, COURT – II

Item No. 101
(IB)-17(ND)2019
IA/2768/2021

IN THE MATTER OF:

M/s. Ample Infrastructure Pvt. Ltd. ... **Applicant/Petitioner**
Versus
M/s. Intellicity Business Park Pvt. Ltd. ... **Respondent**

Under Section: 7 of IBC, 2016

Order delivered on 06.07.2021

CORAM:

SHRI. ABNI RANJAN KUMAR SINHA
HON'BLE MEMBER (J)

SHRI L.N. GUPTA,
HON'BLE MEMBER (T)

PRESENT:

Counsel for the Petitioner
Mr. Atul Sharma, Advocate for Resolution Applicant

ORDER

IA/2768/2021: By filing this application, the applicant/Resolution Professional has prayed to sell the vehicle numbers UP-16-CT-6161, DL-6C-M-4601 and UP-16-AU-3132 of Corporate Debtor at a price not less than its present fair value, which are depreciating day by day.

Heard, the Ld. Counsel for the applicant and perused the averments made in the application.

In the course of hearing, Mr. Atul Sharma, Advocate has appeared for the Resolution Applicant.

Ld. Counsel for the Applicant submitted that the COC, in its meeting dated 5th March 2020 has resolved to sell the vehicle of the Corporate Debtor, at a price not less than its present fair value to meet the CIRP expenses. By a further resolution, the COC has also authorised the resolution professional to take such a step and do all the things, deeds and acts as may be necessary in this regard.

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Ld. Counsel further submitted that in view of Regulation 29 of the Insolvency Regulation Process for Corporate Person Regulation 2016, the said resolution was approved by 99.81% of the voting share. So, the applicant may be permitted to sell the cars by e-auction.

On the other hand, Ld. Counsel for the Resolution Applicant, Mr. Atul Sharma opposed the prayer on the ground that subsequent to this resolution, the Resolution Plan submitted by the Resolution Applicant has also been approved by the COC, which is pending for consideration before this Adjudicating Authority. Therefore, the Resolution Applicant may be added as a party and a copy of this application may be given to the Resolution Applicant.

Considering the submissions of the Parties and on perusal of the averments made in the application, we notice that the applicant has not added anyone as a party on the ground that the COC has authorised the Resolution Professional to sell the vehicles.

We further notice that the Resolution Plan was approved by the COC after this resolution and it has specifically been mentioned in the application that the sale proceeds shall be utilized towards the CIRP Cost.

Under such circumstances, we are of the considered view that the Resolution Applicant, whose resolution plan has been approved by the COC is not a necessary party in this proceeding. Hence, we are not inclined to accept the argument of the Ld. Counsel for the Resolution Applicant that the Resolution Applicant is a necessary party in this proceeding.

Now coming to the prayer of the Applicant, since the COC by 99.81% of Voting share has approved the resolution to sell the cars, the value of which is depreciating day by day and also authorised the Resolution Professional to proceed in accordance with the provision of law, we hereby allow the prayer of the applicant. The applicant is directed to sell the vehicles after publishing the Notice in the newspapers circulated in the area, where the Registered office of the Corporate Debtor is situated followed by sale to be conducted through the e-auction. We further direct that the Sale proceeds shall be utilized towards the CIRP cost as provided in the Resolution Plan.

With this, the present IA stands disposed of.

—Sd—

(L. N. GUPTA)
MEMBER (T)

(Sapna)

—Sd—

(ABNI RANJAN KUMAR SINHA)
MEMBER (J)