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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-07-2025

CORAM

**THE HONOURABLE DR.JUSTICE ANITA SUMANTH
AND
THE HONOURABLE MRS.JUSTICE K. GOVINDARAJAN
THILAKAVADI**

WP No. 22949 of 2025

AND

WMP NO. 25783 OF 2025, WMP NO. 25784 OF 2025

1. KJ Vinod (Insolvency Professional)
S/o. Reghunath Madathil Shankaran, Ip
Regn.No.Ibbi/ipa-003/1c1-
n00291/2020-2021/13451 B-602,
Santha Towers, Paruthipattu, Avadi,
Chennai-600 071

Petitioner(s)

Vs

1. The Registrar Of The National
Company Law Tribunal -
Chennai Bench, Corporate Bhawan, Ii
Floor, Beach Road, Mannady, George
Town, Chennai-600 001

2. Annie Traders Private Ltd
Rep By Its Director, Having Its
Registered Office At 3rd Floor, Capital
Building, No.554/555, Anna Salai,
Teynampet, Chennai-600 018



3. Insolvency And Bankruptcy Board Of
India

Rep By Its Deputy General Manager,
7th Floor, Mayur Bhawan, Shankar
Market, Connaught Circus, New
Delhi-110 001

Respondent(s)

WMP No. 25783 of 2025

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PRAYER

calling forth the records pertaining to the impugned order dated 4.6.2025 passed by the Honble National company Law Tribunal Bench-II chennai in CP(IB)/35(CHE)/2022 and to partially quash the impugned order dated 4.6.2025 to the limited extent of having appointed Mr.Thangamuthu Viswanathan instead of the petitioner as the Interim Resolution Professional of the respondent No.2, as being arbitrary, sans authority and in excess of the jurisdiction as vested under the Insolvency and Bankruptcy code 2016 and violative of section 16(2) of the Insolvency and Bankruptcy code 2016 and as also being against the principles of natural justice and thereby appoint the petitioner as the interim Resolution Professional of the respondent No.2,

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PRAYER

to dispense with the production of original /certified copy of the order dated 4.6.2025 in CP(IB)/35(CHE)/2022 passed by the Honble National company Law Tribunal Bench-II chennai

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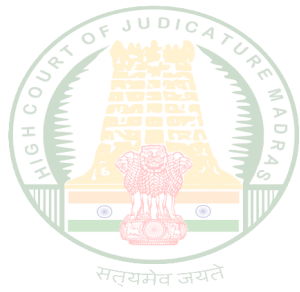
PRAYER

to stay the impugned order dated 4.6.2025 in CP(IB)/35(CHE)/2022 and all further proceedings in CP(IB)/35(CHE)/2022 before the Honble National company Law Tribunal Bench-II chennai pending disposal of the writ petition

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For Petitioner(s): Mr. VARUN SRINIVASAN

For Respondent(s): Ms.S. Indumathi Ravi For R1
Mr. Girish Ramanathan For Mr.
S.A.Vivekanda For R2



ORDER

(Order of the Court was made by Dr.Anita Sumanth J.)

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The petitioner relies on Sections 10(3)(b) and 16(2) of the Insolvency and

Bankruptcy Code, 2016 (in short 'Code') reading thus:

Section 10. Initiation of corporate insolvency resolution process by corporate applicant.

.....

(3) The corporate applicant shall, along with the application furnish the information relating to--

(a)

(b) the resolution professional proposed to be appointed as an interim resolution professional.

.....

Section 16 Appointment and tenure of interim resolution professional.

.....

(2) Where the application for corporate insolvency resolution process is made by a financial creditor or the corporate debtor, as the case may be, the resolution professional, as proposed respectively in the application under section 7 or section 10, shall be appointed as the interim resolution professional, if no disciplinary proceedings are pending against him.

(3) Where the application for corporate insolvency resolution process is made by an operational creditor and--

(a) no proposal for an interim resolution professional is made, the Adjudicating Authority shall make a reference to the Board for the recommendation of an insolvency professional who may act as an interim resolution professional;

(b) a proposal for an interim resolution professional is made under sub-section (4) of section 9, the resolution professional as



proposed, shall be appointed as the interim resolution professional, if no disciplinary proceedings are pending against him.

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2. A combined reading of Sections 10(3)(b) and 16(2) of the Code indicate that in case of applications filed by Financial Creditor (FC) or Corporate Debtor (CD) seeking ownership, it is incumbent on the Insolvency and Bankruptcy Board of India (in short 'Board') to appoint an Interim Resolution Professional (IRP) as suggested by the FC or CD as the case may be.

3. To be noted that even Section 16(3) which grants some leeway for the Board to appoint RP as per its discretion, would stand triggered only in the event that the Operational Creditor (OC) does not give a proposal for appointment of a specific IRP. Therefore, it appears prima facie that in all the three cases (FC, OC and CD), suggestions for appointment of IRP by the applicants, are liable to be accepted.

4. As in the present case, the NCLT has proceeded to appoint an IRP different from that suggested by the CD, Ms.Indumathi Ravi, learned counsel who appears on behalf of R1/National Company Law Tribunal (NCLT) will obtain instructions on these aspects of the matter and file a detailed counter. She



will also point to those instances where the NCLT has proceeded to appoint an IRP not as suggested by the applicants, either under Section 7, 9 or 10.

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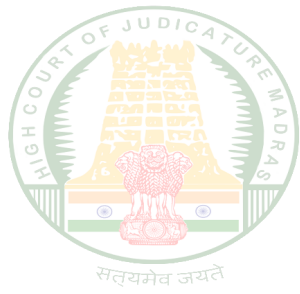
5. To add, a reading of Sections 22 and 27 of the Code indicates that the Committee of Creditors (CoC) has the discretion to substitute an IRP. The Scheme of the Act thus, prima facie appears to be that the Board is mandated to accept the recommendation of the applicant, be it, FC, OC or CD, and it is only the CoC in charge of management of the company, that has the discretion to change the IRP.

6. List on 22.07.2025. Final opportunity is granted to the respondents to file counters by then with a copy served in advance upon the other side.

(ANITA SUMANTH J.)(K.GOVINDARAJAN THILAKAVADI J.)

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