IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ

CA No.221 of 2019 IN CP(IB) No.351/ALD/2018

(Application filed under Section 60(5)(c) of the Insolvency and Bankruptcy Code, 2016).

<u>IN THE MATTER OF:</u>

Kashi Viswanathan Sivaraman

AAA Insolvency Professionals LLP
E-10A, Kailash Colony, New Delhi 110048

……Applicant

Versus

1. Faster Hydraulics Pvt. Ltd.

Plot No. 10, Gat No.108 Ambethan,
Thaluka, Khed District, Pune 410501

2. IDBI Bank

A-14, Near Metro Station Gate No.5
Lajpat Nagar-II, New Delhi 110024

...... Respondents

<u>AND IN THE MATTER OF:</u>

M/s Faster Hydraulics Pvt. Ltd.

…… Operational Creditors

Versus

KHN Industrial Equipments India Pvt. Ltd.

…… Corporate Debtor

Order Pronounced on: 30.07.2026

Coram:

Mr. Praveen Gupta	:	Member (Judicial)
Mr. Ashish Verma	:	Member (Technical)

-Sd-

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Appearances:

Ms. Aishwarya Prasad with Sh. Niraj Chamyal, & Sh. Anirudh Singh, Advs. : *For the RP*

ORDER

1. The present application has been filed on 05.08.2019 under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") by Mr. Kashi Viswanathan Sivaraman, the Interim Resolution Professional (hereinafter referred to as the "Applicant/IRP") of KHN Industrial Equipments India Private Limited against the Faster Hydraulics Pvt. Ltd. (hereinafter referred as "Respondent No. 1") and the IDBI Bank (hereinafter referred as "Respondent No. 2") inter alia, seeking the following reliefs:

"

a. *Pass an order directing Respondent No. 1 to bear the cost incurred by the Applicant for Public Announcement;*

b. *Pass an order fixing the fee of the Applicant in the capacity of the Interim Resolution Professional of the Corporate Debtor;*

c. *Pass an order directing Respondent No. 2 to appoint the Applicant as the Resolution Professional, and;*

   i. *Pass an order fixing the fees of the Applicant in the capacity of the Resolution Professional;*

   ii. *Pass an order directing Respondent No. 2 to provide interim finance to the Applicant for carrying out CIRP of the Corporate Debtor;*

d. *Or, in the alternative to Prayer (c) herein, pass an order directing Respondent No. 2 to suggest an Insolvency Professional;*

e. *Pass any other orders as may be deemed fit in the present circumstances.*

"

2. As per the submissions of the Applicant, the brief facts leading to the filing of the present Application are as follows:

a. This Tribunal, vide order dated 21.05.2019, admitted an application filed by Faster Hydraulics Private Limited ("Operational Creditor"/ "Petitioner") under Section 9 of the Code and initiated the Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor and appointed Mr. Kashi Viswanathan Sivaraman as the Interim Resolution Professional ("IRP") of the Corporate Debtor.

b. Pursuant to his appointment, the IRP made public announcement on 28.05.2019 inviting claims from all creditors and other stakeholders in accordance with Section 15 of the Code. The last date stipulated for submission of claims in the said public announcement was 10.06.2019.

c. On the last date for submission for claims, the IRP received only one claim i.e., from Respondent No.1/IDBI Bank, in its capacity as a Financial Creditor, for an amount of ₹2,04,881/-. Since no other claims were received from any stakeholder, the IRP constituted the Committee of Creditors ("CoC") comprising IDBI Bank as its sole member.

d. Thereafter, the IRP convened the 1st CoC meeting on 01.07.2019, wherein various resolutions, including confirmation of the IRP as the Resolution Professional ("RP") as well as approval of his remuneration as IRP and RP, ratification of delegation of the authority of IRP to any person, approval of the professional fees payable between IRP and the appointed IPE, publication of Form G along with the approval of eligibility criteria of the Prospective Resolution Applicants and approval of the Request for Resolution Plan and Bid Evaluation Matrix, necessary for the effective conduct of the CIRP were placed before the sole member of the CoC. However, it is averred that the sole member of the CoC rejected all the proposed resolutions.

3. In view of the above facts and circumstances, the Applicant being aggrieved by the aforesaid conduct of the sole CoC member, has filed the present application.

COUNTER AFFIDAVIT FILED BY THE IDBI BANK

4. In response to the above application, the IDBI Bank/ Respondent No. 2 filed its counter affidavit vide diary no. 2231 dated 20.11.2019, wherein following submissions are made:

a. It is submitted that the Respondent No. 2 had filed a claim for an amount of Rs. 2.08 Lakh pursuant to the public announcement issued by the IRP in accordance with the provisions of the Code.

b. It is further submitted that the Respondent No. 2, being the sole member of the CoC, rejected all the resolutions placed before it in the first meeting of the CoC. It is contended that the Respondent No. 2 justified its decision on the ground that fixation of the RP remuneration at Rs. 2 lakh per month, in respect of an admitted claim of Rs. 2.08 lakh, was not in its interest. Accordingly, praying for the dismissal of the present application against the Respondent No. 2.

FINDINGS AND ORDER

5. We have heard the Ld. Counsel representing the parties and perused the records.

6. At the outset, it is to be noted, vide our separate order dated 30.07.2026 passed in C.A. No. 22 of 2020, the Corporate Debtor has been directed to be dissolved. Consequently, the reliefs sought in prayer clauses (a), (c) and (d) of the present Application have become infructuous. Accordingly, the only issue that survives for consideration in the present Application is the determination of the fee of IRP and the manner in which the same are to be borne.

7. From the material available on record, it is evident that the sole member of the CoC, in the first CoC meeting itself, rejected the resolutions pertaining to the approval of the CIRP expenses as well as the fixation of the fee of the IRP/RP. The said stand has also been reiterated in the sole CoC member's reply, wherein it has been contended that, in respect of an admitted claim of Rs. 2.08 lakh, fixation of the IRP's fee at Rs. 2 lakh per month was not in its interest.

8. In the aforesaid backdrop, we refer to Regulations 33(2) and 33(3) read with the Explanation thereto of the IBBI (Corporate Insolvency Resolution Process) Regulations, 2016 (hereinafter referred to as "CIRP Regulations, 2016"), which govern the fixation of the expenses, including the fee payable to the IRP. The said provisions are reproduced below for ready reference:

> *"*
> *33. Costs of the interim resolution professional.*
> *...*
> *(2) The Adjudicating Authority shall fix expenses where the applicant has not fixed expenses under sub-regulation (1).*
> *(3) The applicant shall bear the expenses which shall be reimbursed by the committee to the extent it ratifies.*
> *.....*
> *[Explanation. - For the purposes of this regulation, "expenses" include the fee to be paid to the interim resolution professional, fee to be paid to insolvency professional entity, if any, and fee to be paid to professionals, if any, and other expenses to be incurred by the interim resolution professional."*

9. In view of the above, it is an admitted position that the CoC did not approve the fee of the IRP. Consequently, the determination of the remuneration payable to the Applicant falls within the ambit of Regulations 33(2) and

33(3) of the CIRP Regulations. Further, during the course of the hearing held on 10.06.2026, the Ld. Counsel appearing for the Applicant/IRP, on instructions, submitted that the Applicant would abide by such amount as may be determined by this Adjudicating Authority towards the CIRP costs. The relevant submission is reproduced below:

> *"2. He therefore, on instructions of RP, states that any amount as may be deemed fit by this Adjudicating Authority may be ordered to be paid towards the CIRP cost which may be directed to be met by the Operational Creditor as well as by the Committee of Creditors consisting of sole creditor IDBI."*

10. Applying the aforesaid principles to the facts of the present case, it is an undisputed fact that, although the CIRP remained in force for a period of 219 days from the insolvency commencement date, the process did not witness any substantive resolution activity. From the very inception of the CIRP vide order dated 21.05.2019, the Corporate Debtor had no identifiable assets, the Suspended Director failed to extend any meaningful cooperation in tracing or handing over the assets and records of the Corporate Debtor, and the sole member of the Committee of Creditors also did not actively pursue the CIRP. Consequently, the CIRP remained confined to the discharge of statutory compliances under the Code without any meaningful progress towards resolution.

11. Therefore, in the consideration of the aforesaid circumstances, while the Applicant cannot be denied reasonable remuneration for discharging his statutory duties as the IRP, having regard to the nature of duties discharged by the Applicant, the factual circumstances of the present case and the absence of any substantive resolution activity during the CIRP, we consider it appropriate to fix the remuneration of the Applicant/IRP at a lump sum amount of Rs.2,00,000/-.

12. Since the remuneration of the Applicant/IRP was neither fixed nor ratified by the CoC, Regulation 33(3) mandates that the applicant who initiated the CIRP shall bear such expenses, subject to reimbursement by the CoC to the extent the same is ratified. Accordingly, the Operational Creditor, namely Faster Hydraulics Pvt. Ltd., which initiated the CIRP by filing the application under Section 9 of the Code, is directed to bear and pay a lump sum amount of Rs. 2,00,000/- towards the fee of the Applicant/IRP.

13. With this, the instant C.A. No. 221 of 2019 is allowed only with respect to prayer clause (b) for fixing the fees as ordered hereinbefore.

14. C.A. stands disposed off accordingly.

-Sd-	*-Sd-*
(Ashish Verma)	**(Praveen Gupta)**
Member (Technical)	**Member (Judicial)**

Date:30.07.2026