

**IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI**  
**PRINCIPAL BENCH**

**(IB)-02(PB)/2017**

**IN THE MATTER OF:**

Nikhil Mehta & sons (HUF) & Ors. .... Applicant/petitioner

Vs.

M/s. AMR Infrastructures Ltd. .... Respondent

**Order under Section 7 of Insolvency & Bankruptcy Code, CIRP**

**Order delivered on 05.09.2018**

**Coram:**

**CHIEF JUSTICE (RTD.) M.M. KUMAR**

**Hon'ble President**

**Sh. S. K. MOHAPATRA,**

**Hon'ble Member (Technical)**

**PRESENTS:-**

For the Petitioner/Applicant:

Mr. Abhishek Anand,

Mr. Anant A.Pavgi, Tushar Tyagi, Advs. for

RP.

For the Respondent(s):

**ORDER**

**CA-798(PB)/2018**

Mr. Anand, learned counsel for the Interim Resolution Professional has brought to the fore-front and highlighted contentious issue by highlighting from the minutes of meeting of the CoC comprising of the class of creditor- Real Estate (Commercial) and Real Estate (Residential). As per the provisions of Section 24(6) of IBC, 2016, each creditor must vote in accordance with the voting share assigned to him based on the financial debt owed to such creditor. In the voting both the classes of creditors have voted but the total poll percentage is very small i.e. 52.78%. As an illustration Section 22(2) requires that decision for appointment of RP replacing IRP has to be taken by 66% of the vote sharing. It is not clear whether 66% is required to be the total vote polled or it has to be 66% of the total voting share of the financial creditors. As the Real estate creditors are now regarded

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as Financial creditors this issue is likely to arise in a large number of cases.

Mr. Sakal Bhushan, learned counsel who is present in the court is also requested to assist the court to reach a correct interpret of various provisions of the Insolvency and Bankruptcy Code, 2016. A complete copy of the paper book shall be handed over to him by the learned counsel for the IRP by tomorrow.

List for further consideration on 10.09.2018.

Sdl—

**(M.M.KUMAR)  
PRESIDENT**

Sdl—

**(S. K. MOHAPATRA)  
MEMBER (TECHNICAL)**

05.09.2018  
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