

NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

KOLKATA

I.A NO. /KB/2020

in

C.P. (IB) NO. 132/KB/2019

In the matter of:

Insolvency and Bankruptcy Code, 2016

AND

In the matter of:

UNITED BANK OF INDIA a body corporate constituted under the Banking Companies (Acquisition and transfer of undertaking) Act of 1970 and having its head office at 11 Hemant Basu Sarani, Kolkata-700001;

.... Financial Creditor

AND

In the matter of:

M/S PANNALAL COLD STORAGE PRIVATE LIMITED, a company incorporated under the provision of the Companies Act, 1956 and having its registered office at Lakshmanpur, Utterpara, Nandipara, Majherpara, P.O: Lakshmanpur, Dist: Hooghly, West Bengal: 712404;

... Corporate debtor

AND

In the matter of:

An Application under Section 60(5) of Insolvency and Bankruptcy Code, 2016 read with Rule 11 of National Company Law Tribunal Rules, 2016;

AND

In the matter of:

SANTANU BHATTACHARJEE an Insolvency Professional, IBBI Reg No: IBBI/IPA-001/IP-P01141/2018-19/11868 having its office at N-527, Diamond Heritage, 16 Strand Road, Kolkata-700001;

.... Applicant/Resolution Professional

Coram: Shri Jinan K.R., Hon'ble Member (Judicial)

Counsels Present:

Saurav Jain, Advocate] For Applicant RP
Santanu Bhattacharjee] Resolution Professional
Mr. Jegan Kovil Mani } For CoC/United Bank of India.
Mr. Shamit Sanyal } For CoC

Date of hearing: 15 .06.2020

Order delivered on: 15 .06.2020

ORDER

Per Jinan K.R. Member (Judicial)

1. This is an application filed by the resolution professional (In short RP) for approval of the resolution plan of M/s. Pannalal Cold Storage Private Limited as the plan was approved by the CoC by 100% voting share of the financial creditor.
2. The Company Petition filed u/s was admitted vide order dated 21.10.2019 of the NCLT Kolkata Bench by ordering CIRP as against the corporate debtor (CD) M/s. Pannalal Cold Storage Private Limited and Mr. Santanu Bhattacharjee was appointed as IRP and the appointment was later confirmed as RP vide order dated 05.12.2019.

3. Upon successful completion of CIRP and on getting approval of a resolution plan of the CD the RP filed this unnumbered application contending that the matter required urgent hearing as the business of the corporate debtor belongs to the nature of cold storage and that can help the Resolution Applicant to start the business for the help of the Society by reserving essential ingredients in the cold storage and protect the interest of the creditors, Resolution Applicant, several employees and others by taking final adjudication on the Resolution Plan, without waiting for the lifting of the Lockdown due to COVID-19 Pandemic. The reason for an early hearing being satisfactorily explained this application was listed on today for hearing after giving notice to the applicant and CoC/United Bank OF India.
4. Heard the Ld. Counsel for the RP through VC. Perused the records and the copy of the resolution plan .
5. The Ld. Counsel Mr. Saurav Jain, for the RP submits that the CIRP of the Corporate Debtor was successfully completed and a resolution plan has been approved by the CoC in its 6th meeting held on 10.03.2020 itself of Hamudar Rahaman Sekh & Others (Resolution Applicant) and on the basis of the same the applicant has prepared the final report along with the resolution plan to submit the same before the Hon'ble NCLT on the very next date of hearing i.e. 20.03.2020 for final adjudication by the adjudicating authority however the same could not be done, as the bench has postponed the date of hearing of all cases listed on that day due to the situation of COVID 19 and further listed on 30.04.2020 but the matter could not be taken due to nationwide lockdown hence the RP filed this application praying for approval of the resolution plan submitted by Hamudar Rahaman Sekh & Others which has been approved by the CoC by 100% voting shares of the financial creditor in the 6th CoC meeting held on 10.03.2020.
6. According to him CIRP process of the Corporate Debtor has already been completed on 18.04.2020, the assets of the Corporate Debtor has already suffered loss and damage due to the circumstances of nationwide lockdown arising due to COVID 19 after the approval of the Resolution Plan by the CoC on 10.03.2020 and the Resolution applicant is ready to pay the agreed amount as per the resolution plan even in the situation of crisis and is ready to implement the terms of the Resolution Plan which was approved before the situation of COVID 19. He further

would submit that the resolution plan submitted by M/s. Hamudar Rahaman Sekh & Others was discussed in detail by the CoC and CoC being found the plan is feasible and viable, voted by the CoC with 100% voting in favour of the resolution plan. According to the Ld. Counsel the resolution applicant had the capability to implement the resolution plan; that the applicant was not ineligible to submit a resolution plan under Section 29A of the Code; the Plan provides specific source of funds to pay insolvency resolution process costs payable in priority to payment of other debts. No claims received from any workmen as submitted. All the operational creditors claims agreed to pay by the resolution applicant. Submitted by the Ld.Counsel. He also submits that the CD is a going concern and the RP managed to run the company on profit. According to him the resolution plan balanced the interest of all stakeholders of the Corporate Debtors and that the plan did not contravene any of the provisions of law and therefore, the resolution plan is liable to be approved.

7. Upon hearing the argument and perusal of the copy of the resolution plan, Form H, and the certificate in compliance of Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and the Affidavit under Section 29A of the Resolution Applicant I am satisfied that the resolution plan as approved by the CoC u/s 30(4) meets the requirements as referred to in sub-section (2) of section 30 of the Code. Therefore, the resolution plan of the CD deserve an order of approval u/s 31(1) of the I&B Code.
8. Having stood the aforesaid circumstances, I pass an order of approval of the resolution plan upon the following among orders:

ORDER

(i) The Resolution Plan of M/s. Pannalal Cold Storage Private Limited which is approved by the CoC with 100% voting share of the financial creditor is hereby approved under Section 31(1) of the Insolvency and Bankruptcy Code, 2016, which will be binding on the Corporate Debtor, its employees, members, creditors, guarantors and other stakeholders involved in the Resolution Plan.

(ii) The moratorium order passed under Section 14 shall cease to have effect.

(iii) The Resolution Professional shall forward all records relating to the conduct of the Corporate Insolvency Resolution Process and the Resolution Plan to the Insolvency and Bankruptcy Board of India to be recorded on its database.

(iv) CA (IB) No. 132 /KB/2019 is disposed of accordingly.

(v) Registry is directed to serve copies by way of e-mail to the parties forthwith.

(Jinan K.R.)
Member (Judicial)

Signed on this, the 15th day of June, 2020.

VC