

before the Hon'ble NCLAT, it was directed that the proceedings before this Bench be completed within two weeks.

When we started the hearing of this case, the officer representing the Indian Gas was present with his Demand Draft of Rs. 2 crores but had thoroughly failed to satisfy this Bench or the Resolution Professional as regards their net worth and as a result of which the entire effort made by us to somehow save the Company from being liquidated had failed.

One Gentleman, Mr. Mukunda, a Financial consultant came forward and sought time of six weeks so that he will be in a position to find someone to invest in the Company. This Bench, with an honest intention made every possible effort even at the cost of considering the proposal of the investors, beyond the period of the stipulated 270 days, only to save the company from being liquidated, to somehow protect the interest of the workers/ employees and their livelihood and to see that the creditors including the Public Sector Banks, who had put in Public money into this Company, would get back maximum in return. On the earlier hearing of the matter, we had encouraged the said Indian Gas representative to invest in the Corporate Debtor, after obtaining the nod of majority of the CoC member, not minding the strenuous opposition by a financial creditor i.e. Finquest Financial Services, who had challenged our earlier order in the Hon'ble Appellate Tribunal. But, this time even though the said person from Indian Gas, is present with Rs. 2 crores demand draft, did not satisfy the required criteria to submit a Resolution Application. Almost all the creditors present in the Court opposed to afford any further opportunity for the proposed investor and for granting time beyond 270 days in violation of the time line prescribed by the Code which also was upheld by the Hon'ble NCLAT and the Hon'ble Apex Court.

Now all our efforts have gone in vein and we are very saddened with the manner in which the investors one after the other misrepresented the facts before us, giving us no confidence to further afford an opportunity for anybody. Under these circumstances, though it is very unfortunate, we are left with no other option but to proceed with the process of liquidation. The detailed order of liquidation shall be passed in due course. However, last but not the least, we request the creditors and the RP to somehow see that the Company is sold as a going concern and the interest of workers/ employees be protected to their level best.

MA 04/2019

This is an application filed by the Resolution Professional for the liquidation of the Corporate Debtor under Section 33 of the Code. This MA is allowed vide separate orders.

MA 117/2019

This is an Application filed by the RTIL Employees Welfare Association to substitute the Applicant name as RTIL Employees Welfare Association instead of RTIL Limited Employees Association as mentioned in the MA 1565/2018 and the same is allowed.

MA 116/2019

This is an Application filed by 'RTIL Ltd.' employees association seeking permission that the Applicant herein may be joined as a co-Applicant in MA 1565/2018 and the same is allowed.

MA 199/2019

This is an Application filed by the RTIL Employees Welfare Association for imploding SPGP Holdings (HK) Limited and CFM Asset Reconstruction Private Limited as Co-Applicant in MA 1565/2018 and with a direction to furnish the information memorandum to the said Applicant SPGP holdings (HK) Limited and CFM Asset Reconstruction Pvt. Ltd. The said Application is allowed.

MA 1565/2018

This is an Application filed by RTIL Ltd. Employees Welfare Association seeking the opportunity of being heard and put forth a Resolution Plan for the Corporate Debtor for the consideration of Committee of Creditors and further stating that no steps towards liquidation of the Company to be taken before giving opportunity to them. It is clear from the earlier proceedings that not one but three opportunities were given to the Applicant to come up with a viable Resolution Plan but all the three

investors identified by the applicant miserably failed to prove their basic net worth for submission of Resolution Plan. In view of the same and considering the fact that the CIRP had already come to an end, liquidation order is passed. In view of this, this Application is dismissed as infructuous.

MA 1564/2019

This is an MA filed by the General Secretary of Reid and Taylor Employees Welfare Union expressing the plight of the workers/ employees of the Corporate Debtor in case the Corporate Debtor is liquidated and sought for impleading the Applicant as a party to the Company Petition and to be heard in the proposed Resolution Plan. In view of the liquidation order passed for liquidating the Corporate Debtor, this Application is dismissed as infructuous.

SD/-

V. NALLASENAPATHY
Member (Technical)

SD/-

BHASKARA PANTULA MOHAN
Member (Judicial)

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IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

MA 04/2019

In

C.P. 382/I&BP/NCLT/MAH/2018

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

In the matter of
Edelweiss Asset Reconstruction
Company Limited,
Edelweiss House, Off CST Road,
Kalina, Mumbai 400 098.

...Financial Creditor

Vs.

RTIL Limited
Marathon Innova IT Park, B2/ 501 &
C- 501, 5th Floor, Off. G.K. Marg,
Lower Parel (West), Mumbai -
400103.

...Corporate Debtor

M.A. No. 04/2019

Venkatesan Sankaranarayanan.

Resolution Professional

...Applicant

Order delivered on: 05.02.2019

Coram: Hon'ble Bhaskara Pantula Mohan, Member (J)

Hon'ble V. Nallasenapathy, Member (T)

For the Applicant: Mr. Rahul Dev i/b Argus Partner,
Mr. Animesh Bisht, Ms. Saloni Kapadia i/b Cyril Amarchand Mangaldas,
Advocate for Resolution Professional,
Ms. Karishma Rao, For applicant in MA 1564/2018.

Per: V. Nallasenapathy, Member (Technical)

ORDER

1. The Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor by an order dated 10.04.2018 of this Adjudicating Authority on a section 7 Petition filed by the Financial Creditor, Edelweiss Asset Reconstruction Pvt. Ltd., wherein Mr. Venkatesan Sankaranarayanan, was appointed as Interim Resolution Professional and thereafter confirmed by the Committee of Creditors (CoC) as Resolution Professional (RP).
2. The RP submits that the public announcement for inviting claims from Creditors was issued on 20.04.2018, fixing 03.05.2018 as a last date for submission of claims and subsequently the IRP has constituted the CoC. On 24.05.2018, two valuers were appointed for valuing the assets of the Corporate Debtor and subsequently the Valuation Reports dated 07.09.2018 and 24.09.2018 were also submitted to the CoC. On 31.05.2018, the RP made a print publication in Business Standard and the Financial Express, PAN India editions, calling for expression of interest (EOI) from prospective resolution applicants, which should be submitted on or before 30.06.2018. The applicant submits that 11 EOI's were received and 7 had signed the Non Disclosure Agreement (NDA) and the Prospective Resolution Applicants were provided access to Information Memorandum, Process Memorandum as well as Virtual Data Room (VDR). Further the applicant issued Form G and fixed the last date for the submission of resolution plans as 19.08.2018. On 14.08.2018, the applicant issued another revised Form G as no resolution plans were received till the previous due date for submission of resolution plan, and the last date for submission of resolution plan was extended up to 06.09.2018. The applicant further submits that the CIRP period was extended by 90 days by an order of this Bench dated 03.10.2018.
3. On 08.09.2018, a revised Form G was issued by the applicant extending the last date for submission of resolution plan up to 04.10.2018.
4. Even after extending the last date several times no resolution plan was received even though 3 PRA's continue to show interest in submission of the resolution plan and the subject was discussed in the 4th CoC meeting held on 09.10.2018, and the CoC approved fresh evaluation

matrix and Form G and then the last date for submission of resolution plans was extended up to 15.11.2018.

5. The applicant submits that all the PRA's excluding Silver Point Luxembourg Platform S.A.R.L. (Silver Point), orally conveyed to the applicant, that they would not be submitting resolution plans, which was informed to the CoC in 5th meeting held on 22.11.2018. Accordingly, the applicant informed the CoC that access to VDR had been revoked to all other than Silver Point after the expiry of the deadline for submitting the resolution plan i.e. 15.11.2018. The representatives of Silver Point visited the factory in Mysore on 12.11.2018 and requested the applicant to extend the deadline for submission of resolution plan and accordingly a revised Form-G was issued on 27.11.2018 extending the time for submitting a resolution plan up to 03.12.2018. Once again the last date for submission of resolution plan was extended up to 03.12.2018 by issuing revised Form G.

6. The Applicant submits that thirteen parties have submitted EOIs out of which 9 parties have signed NDs and accessed documents in the VDR, only 2 parties had visited the factory premises and had discussion with the Resolution Professional and his team. However, no resolution plan was received from any quarter which was informed to the COC and the COC in the meeting held on 13.12.2018 decided to liquidate the Company and the Resolution was put for voting on 14.12.2018 which was approved by 67.58% of voting. Accordingly, the Resolution Professional filed this Application seeking the order of liquidating the Corporate Debtor and to appoint one Mr. Ravi Sankar Devarakonda having IP Registration No. IBBI/IPA-001/IP-P00095/2017-18/10195 as a liquidator. The CoC in its meeting held on 18.12.2018 decided to appoint Mr. Ravi Shankar Devarakonda as the proposed liquidator with 86.37% of voting in CoC and the said person has filed his written consent to act as a liquidator.

7. When the liquidation application was about to be taken up for hearing, on 20.12.2018, an unregistered Employees Association of Reid & Taylor (India) Ltd. filed an application i.e. MA 1565/2018, saying that, they have an investor (SPGP Holdings of Hongkong) who can submit a resolution plan for Corporate Debtor. In view of the fact that resolution

is the main aim of IBC and when somebody is there to invest in the Company, an opportunity was given to the Employees Association to bring in the said investor but subsequently he has backed out even after taking sufficient time to submit the documents and to prove his networth. Thereafter, the said association brought another person Mr. Shah, a representative of CFM Asset Reconstruction Pvt. Ltd. before this Bench and submitted that his net-worth is more than Rs. 100 Crores and he is interested for the investment in Corporate Debtor, however he has also backed out after making tall claims and wasting the time of the Bench. Subsequently, one more person Mr. Rinav Manseta, said to be a representative from Indian Gas Limited was brought by the said association but the said company failed to prove its basic requirement of net worth and hence this Bench could not entertain the third investor for the reason, he failed to appear before NCLAT and prove his bonafides but produced unauthenticated documents which did not proved his networth. In view of the above the said application No. 1565/2018 was dismissed.

8. On hearing the submissions of the Applicant and on reading the Application and the documents enclosed therein, as the RP has complied with the procedure laid under the Code read with Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (Regulations), for the valuation report filed by the valuer has not been disputed by the CoC, on verification, we are of the view that this case is fit for passing liquidation order under sub-section 1 of section 33 of the Code as no resolution plan has been submitted before the Adjudicating Authority by the Resolution Professional, and accordingly, this Bench orders;

- a. that the Corporate Debtor be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC, the jurisdiction under which this Company has been registered.
- b. that Mr. Ravi Shankar Devarakonda is hereby appointed as Liquidator as provided under Section 34(1) of the Code.
- c. all the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter

ceased to exist. All these powers henceforth vest with the Liquidator.

- d. that the personnel of the Corporate Debtor are hereby directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- e. that the Liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by the IBBI and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.
- f. that on having liquidation process initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the corporate debtor with prior approval of this Adjudicating Authority.
- g. This liquidation order shall be deemed to be notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.

9. Consequently, all the powers of the board of directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested in the liquidator.
10. Accordingly, this Misc. Application is hereby allowed directing the Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

Sd/-
V. Nallasenapathy
Member (Technical)

sd/-
Bhaskara Pantula Mohan
Member (Judicial)