IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH - I
KOLKATA

I.A. (IB) No. 1017/KB/2021
in
C.P. (IB) No. 1331/KB/2018

An application under section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with regulations 44 and 47A of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016

In the matter of:

Union Bank of India

... Financial Creditor

versus

Enfields Gems & Jewellery Limited

... Corporate Debtor

And

In the matter of

Ms. Sonu Jain

Liquidator of Enfields Gems & Jewellery Limited

... Applicant

Date of hearing: 09.05.2022
Order pronounced on: 24.05.2022

Coram:

Shri Rajasekhar V.K	***:***	***Member (Judicial)***
Shri Balraj Joshi	***:***	***Member (Technical)***

Appearances:

For the Applicant : Ms. Sonu Jain, Liquidator-in-person

ORDER

Per Balraj Joshi, Member (Technical)

1. This court convened *via* hybrid mode.

2. ***I.A. (IB) No. 1017/KB/2021*** is an application filed by Ms. Sonu Jain, liquidator of Enfields Gems & Jewellery Limited ***('Applicant')*** for extension of liquidation period for one year i.e., from 17 October, 2021 to 16 October, 2022. This Adjudicating Authority, *vide* its order dated 16 October, 2019 passed an order to liquidate Enfields Gems & Jewellery Limited ***('Corporate Debtor')***, as per section 33 of the Insolvency and Bankruptcy, Code, 2016 (Code). The Applicant was appointed as Liquidator of Enfields Gems & Jewellery Limited.

3. Thereafter, the Applicant as per Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 made public announcement on 28 October, 2019 in English ***(Financial Express)*** and in Local Newspaper ***(Dainik Statesman***). It is further submitted that the Liquidator constituted the Stakeholders' Consultation Committee ***('SCC')*** and the first meeting was held on 21 January, 2020.

4. Till date the Applicant is unable to obtain the latest Balance Sheet of the Corporate Debtor. The Applicant has also visited the registered office of the Corporate Debtor from where it was found that the office was on rental and is not operative since last eight to nine months.

5. Further, from the report of the Resolution Professional it was observed that there is a sublease property of the Corporate Debtor located at Manikanchan SEZ.

6. The Applicant had sent a letter to SEZ Department to which the Department replied *vide* their letter dated 31 December, 2020, stating that they have the custody of the sublease property and are claiming a penalty of Rs.761.47 Crore, however, no claims were filed with the Applicant i.e., the Liquidator.

7. From the Balance Sheet available for the Financial Years 2012-2013 and 2013 -2014 it could be seen that the stock position of raw materials and finished goods were coming down to Rs.181,80,31,804/-. The key persons who used to handle the day to day operations of the Corporate Debtor in Manikanchan SEZ are (i) Ashish Bothra, (ii) Rajendra Bothra and (iii) Abhishek Agarwal.

8. Further, it is also noticed that a substantial amount of gold were procured duty-free by the Corporate Debtor and the same has been diverted from the Manikanchan SEZ and were sold in local market. The Applicant has thereby written letters to individual directors and has asked for further details.

Orders

9. Heard the Ld. Counsel appearing for the Applicant/Liquidator and perused the application.

10. It is pertinent to mention that in *IA 33/KB/2021* we had extended the time by a period of 180 days from 15 October, 2020 to 12, April, 2021 on the ground of pandemic intervention *vide* order dated 18 March, 2021. In terms of that order the liquidation period was to come to an end on 12 April, 2021.

11. Thereafter, another application being *IA No.858/KB/2021* was filed by the Applicant seeking further extension of the liquidation period by six more months from 12 April, 2021 to 11 October, 2021. We had noted in the order dated 02 November, 2021 that the application appears to have been filed belatedly and seeks to present the Adjudicating Authority with a *fait accompli*. We explicitly stated therein that this cannot be countenanced and IA 858/KB/2021 shall stand disposed of.

12. This present application bearing ***IA 1017/KB/2021*** has been filed as a sequel to the order dated 02 November, 2021. There is nothing in the application explaining the process or steps taken by the Liquidator to sell the property in question. Further, in spite of rejection by this Adjudicating Authority of the extension sought from 12 April, 2021 to 11 October, 2021 this present application seeks extension of time from 12 October, 2021 by a period of one more year, assuming that the extension for the period from 12 April, 2021 to 14 October, 2021 has already been granted while in fact it had been rejected vide order dated 02 November, 2021

13. While seeking extension in a Corporate Insolvency Resolution Process or Liquidation Process one must keep in mind that these extensions should only be made in exceptional cases without affecting the time limit provided for the Corporate Insolvency Resolution Process or Liquidation Process.

14. As envisaged under regulation 44 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 the liquidator shall liquidate the corporate debtor from the liquidation commencement date, notwithstanding pendency of any application for avoidance of transactions. It is further stated that if the Liquidator fails to liquidate the Corporate Debtor within one year, he or she shall make an application to the Adjudicating Authority to continue such liquidation, along with a report explaining why the liquidation has not been completed and specifying the additional time that shall be required for liquidation.

15. We are not satisfied with the submissions of the Applicant. Hence, the Interlocutory Application bearing **I.A. (IB) No. 1017/KB/2021** in **C.P. (IB) No. 1331/KB/2018** is ***rejected***.

16. A copy of this order shall be sent to the Chairperson, Insolvency and Bankruptcy Board of India, for such action as may be necessary in the matter.

17. List the main **C.P. (IB) No. 1331/KB/2018** on ***25 July, 2022***.

18. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities

BALRAJ JOSHI
Digitally signed by BALRAJ JOSHI
Date: 2022.05.24 15:46:40 +05'30'

Balraj Joshi
Member (Technical)

Rajasekhar V K
Digitally signed by Rajasekhar V K
Date: 2022.05.24 14:48:22 +05'30'

Rajasekhar V.K.
Member (Judicial)

The order is pronounced on 24th day of May, 2022

Safura A., [LRA]