

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
COURT-II
KOLKATA**

**I.A. (IB) No. 1132/KB/2022
in
CP (IB) No. 1852/KB/2019**

*Application under section 30(6) and section 31(1) of the
Insolvency & Bankruptcy Code, 2016 read with regulation 39(4) of the
Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for
Corporate Persons) Regulations, 2016 for approval of Resolution Plan.
In the matter of:*

Variant Commercial Private Limited

... Operational Creditor

Versus

Indian Mining Works Private Limited

... Corporate Debtor

And

In the matter of:

Sandip Kumar Kejriwal, Resolution Professional of

Indian Mining Works Private Limited

... Applicant

Date of order: 01 August 2023

Coram:

Smt. Bidisha Banerjee, Member (Judicial)

Shri Balraj Joshi, Member (Technical)

Appearances (via hybrid mode):

For the Applicant/RP

Mr. Shaunak Mitra, Advocate

Mr. Kanishk Kejriwal, Advocate

Mr. Sandip Kejriwal, Resolution Professional

ORDER

1. This Court convened through hybrid mode.

2. On perusal of the records, we have made the following observations which require clarification:
 - a. There are two financial proposals attached to the Resolution Plan, one dated 01 February 2022 at pages 9-11 of the Resolution Plan and the second financial proposal undated at pages 73 to 76 of the I.A., the first financial proposal offers lesser value and the second financial proposal states that the successful Resolution Applicant has proposed a value which is higher. In the minutes of the 13th CoC Meeting, the financial proposal of Rs.1,00,00,000/- was discussed and agreed by the one of the CoC members which is reflected in Agenda 5 (page 105 of the I.A.). Why has the CoC accepted the proposal in which a lesser amount has been proposed?
 - b. According to the Resolution Plan, Rs.11,62,378.43 was claimed by the Operational Creditors but the Resolution Professional did not admit any of the claims, but in Form H this information has not been given, rather under the head of Operational Creditors, the Resolution Professional has stated that there was NIL amount claim under the said headed “Amount claimed” and under the header “Amount Admitted” and amount of Rs.96,51,89,583/- has been admitted. We are unable to come to a conclusion on what is the correct amount claimed and admitted due to such discrepancy.
 - c. Similarly, there is no clarity of the amount proposed to the Financial Creditors, Form H states that the amount admitted and proposed for the Financial Creditors is Rs.8,18,42,149/- and 100% payment is being proposed to the Financial Creditors. How is it possible when the total plan amount is lesser than the amount abovementioned?
 - d. What is the approximate CIRP cost?
 - e. Clause e at Page 10 of the Resolution Plan (page 18 of the I.A.) is incomplete.

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, COURT-II**

**In Re Resolution Plan of Indian Mining Works Pvt. Ltd.
I.A. (IB) No. 1132/KB/2022 in CP (IB) No. 1852/KB/2019**

- f. The point related to regulation 38(2) (d) of the CIRP Regulations is to be given.
3. Clarifications with respect to above observations are sought from the CoC, Resolution Professional and the Successful Resolution Applicant. Affidavits shall be filed within two weeks from the date of this order.
4. List I.A. (IB) No. 1132/KB/2022 along with C.P. (IB) No. 1852/KB/2019 on 21 August 2023 for further consideration.
5. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
6. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Balraj Joshi
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Order signed on the 1st day of August 2023.

GGRB_LRA