IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court -I)
KOLKATA

IA(IBC)/698(KB)2023
in
CP(IB)/2171(KB)2019

An application under section 60(5) of the Insolvency & Bankruptcy Code, 2016 read with regulations 45(3)(a) and 15(1)(b) of the IBBI (Liquidation Process) Regulations, 2016

In the matter of:

Darkwell Merchandise Private Limited

…. Operational Creditor

Versus

SKP Steel Industries Private Limited
(CIN: U27310WB1997PTC085261)

.... Corporate Debtor

And

In the matter of:

Mr. Soumitra Lahiri,
Liquidator of SKP Steel Industries Private Limited

… Applicant

And

IA(IBC)/566(KB)2023
in
CP(IB)/2171(KB)2019

An application under section 60(5) read with section 35(1)(n) of the Insolvency & Bankruptcy Code, 2016 read with regulations 45(3)(a) of the IBBI (Liquidation Process) Regulations, 2016

In the matter of:

Darkwell Merchandise Private Limited

…. Operational Creditor

Versus

SKP Steel Industries Private Limited
(CIN: U27310WB1997PTC085261)

.... Corporate Debtor

And

In the matter of:

Mr. Soumitra Lahiri,
Liquidator of SKP Steel Industries Private Limited

… Applicant

Order pronounced on: 24/11/2023

Coram:

Shri Rohit Kapoor	**:**	**Member (Judicial)**
Shri Balraj Joshi	**:**	**Member (Technical)**

Appearances (through video conferencing):

For Liquidator	:	Ms. Aasia Hasan, Adv. Mr. Swagata Roy, Adv.

O R D E R

Per: Rohit Kapoor, Member (Judicial)

1. This Adjudicating Authority convened through hybrid mode.

2. **IA(IBC)/698(KB)2023**

   This application has been filed by the Liquidator for taking on record Final and Fourth Periodical Progress Report. The Final and Fourth Periodical Progress Report[1] is placed at pages 18 to 202 of the application. This IA is supported by an affidavit duly affirmed by the Liquidator, which is placed at pages 15 to 17 of the application. The Final and Fourth Periodical Progress Report was discussed and taken on record subject to exception and accordingly IA is disposed of.

[1] Annexure 1 to Annexure 16 of IA(IBC)/698(KB)2023

3. **<u>IA(IBC)/566(KB)2023</u>**

4. IA(IBC)/566(KB)2023 has been filed under regulation 45(3)(a) of the IBBI (Liquidation Process) Regulations, 2016 ("**Liquidation Process Regulations**") by Mr. Soumitra Lahiri, Liquidator of SKP Steel Industries Private Limited **("Corporate Debtor")** praying for closure of the Liquidation Process of the Corporate Debtor as the Corporate Debtor has been sold as a going concern to Balmukund Cement & Roofings Private Limited under regulation 32A read with regulation 45(3) of the Liquidation Process Regulations. This application is supported by an affidavit[2] duly affirmed by the Liquidator.

5. This Adjudicating Authority *vide its* order dated 08/02/2021 in CP(IB)/2171(KB)2019, on a petition filed by Darkwell Merchandise Private Limited, Operational Creditor under section 9 of the Insolvency and Bankruptcy Code, 2016 had ordered initiation of Corporate Insolvency Resolution Process **("CIRP")** against SKP Steel Industries Private Limited, Corporate Debtor, appointing Mr. Uday Narayan Mitra as the Interim Resolution Professional. *Vide* order dated 21/07/2021 in IA/477(KB)2021 Mr. Soumitra Lahiri was appointed as Resolution Professional. Liquidation order[3] was passed on 10/05/2022 appointing the Resolution Professional as the Liquidator.

6. In accordance with regulation 41(1) of the Liquidation Process Regulations, the Liquidator has opened bank account in the name of "SKP Steel Industries Limited – In Liquidation" having account no. 031205007032 with ICICI Bank Limited, Minto Park Branch, 5, Victoria Terrace, Elgin, Kolkata, West Bengal 700017.

7. In accordance with regulation 12 of the Liquidation Process Regulations, the Liquidation issued Public Announcement in Form B and received multiple claims from creditors of the Corporate Debtor or other stakeholders as stipulated under various regulations of the Liquidation Process Regulations and constituted

[2] At pages 46 to 48 of IA(IBC)/566(KB)2023
[3] Annexure A-1 at pages 49 to 54 of IA(IBC)/566(KB)2023

Stakeholders' Consultation Committee (**"SCC"**), which was subsequently reconstituted on 10/10/2022.

8. In accordance with regulation 13 of the Liquidation Process Regulations, the Liquidator has submitted with this Adjudicating Authority Preliminary Report and Asset Memorandum on 20/06/2022.

9. At the first meeting of the SCC held on 27/06/2022, it was decided with 71.40% voting share to sell the Corporate Debtor 'as a going concern' having reserved price for e-auctioning (as a going concern) at Rs.10,49,35,934.00. Accordingly, 1st e-auction public notice inviting bids to take over the Corporate Debtor as a going concern was published on 18/07/2022 in "*Financial Exp*ress" (English) and "*Ek Din*" (Bengali). A copy of the public notice was also uploaded on the website of IBBI.

10. The 2nd e-auction public notice inviting bids to take over the Corporate Debtor 'as a going concern' was published on 27/07/2022 in "*Financial Exp*ress" (English) and "*Ek Din*" (Bengali) stipulating the reserve price at Rs.7,87,01,961.00, which was reduced by 25% in comparison to lst e-auction as permissible under the Liquidation Process Regulations. A copy of public notice was also uploaded on the website of IBBI.

11. At the 2nd meeting of the SCC held on 30/07/2022 it was unanimously decided that post 90 days from commencement of liquidation two alternative options will be included in both Public Notice as well as e-auction process memorandum. In **Option A**, the e-auction will be to sell the Corporate Debtor 'as a going concern' under regulation 32(e) of the Liquidation Process Regulations and in **Option B,** the set of assets of the Corporate Debtor will be put up for e-auction under regulation 32(c) of the Liquidation Process Regulations. At the said 2nd meeting of the SCC, Punjab National Bank, inter alia, opined that due from CMG Ductiles Limited of Rs.13,94,82,429/-; TIF Castings Limited of Rs.15,93,01,501/- and Tycoon Suppliers Private Limited of Rs.22,58,02,058/- shall be segregated from

the block of assets to be e-auctioned, to which other members of the SCC have agreed.

12. The 3rd e-auction public notice inviting bids to take over the Corporate Debtor 'as a going concern' was published on 03/08/2022 in "*Financial Exp*ress" (English) and "*Ek Din*" (Bengali) stipulating the reserve price at Rs.7,08,31,756.00, which was reduced by 10% in comparison to 2nd e-auction as permissible under the Liquidation Process Regulations. A copy of public notice was also uploaded on the IBBI website. The 4th e-auction public notice inviting bids to take over the Corporate Debtor was published on 10/08/2022 in "*Financial Exp*ress" (English) and "*Ek Din*" (Bengali) stipulating the reserve price at Rs.6,37,48,580.00, which was reduced by 10% in comparison to 3rd e-auction as permissible under the Liquidation Process Regulations. A copy of public notice was also uploaded on the website of IBBI. The said 4th e-auction public notice was published under two separate options – one under regulation 32(e) and the other one under regulation 32(c).

13. On 17/08/2022, M/s. Right2Vote Infotech Private Limited, the e-auction platform provider informed that M/s. Balmukund Cement & Roofings Limited had emerged as the highest bidder being bid amount of Rs.6,37,48,580.00 to purchase 'Steel Pipe and Wire Manufacturing Business' of SKP Steel Industries Private Limited (in liquidation) on "AS IS, WHERE IS, WHATEVER THERE IS AND WITHOUT RECOURSE BASIS" IN Option-1 as defined in regulation 32(e) of the Liquidation Process Regulations. Accordingly, the Liquidator as per provisions of the Liquidation Process Regulations e-mailed on 18/08/2022 and 25/08/2022 to the successful bidder to deposit the balance sale consideration within ninety days of the date of such demand.

14. The 3rd meeting of SCC was held on 23/08/2022, wherein the Liquidator informed the members of the SCC that in response to 4th e-auction notice several parties responded to the said 4th e-auction public notice, but only Balmukund Cement and Roofings Private Limited deposited EMD of Rs.63,00,000.00, who

was declared as successful bidder for bid amount of Rs.6,37,48,580/- to take over the Corporate Debtor 'as a going concern' as per regulation 32(e) of the Liquidation Process Regulations.

15. The successful bidder completed payment of the full sale consideration amount along with interest for delayed payment of sale consideration amount.

16. The Liquidator issued a Certificate of Sale on 05/12/2022 to the successful bidder and handed over documents pertaining to fixed assets. The successful bidder as well all stakeholders were intimated over e-mail on 05/12/2022 about execution of the Certificate of Sale also.

17. On 07/12/2022, in compliance of section 53 of the Insolvency and Bankruptcy Code, 2016 read with regulation 42(2) of the Liquidation Process Regulations, the Liquidator had completed distribution of sale proceeds of liquidation estate amongst the stakeholders and a tabulation of amount of distribution was e-mailed to every individual stakeholder.

18. On 16/02/2023, the Deed of Assignment has been executed between the Punjab National Bank and the Liquidator of SKP Steel Industries Private Limited wherein the Liquidator has assigned dues from CMG Ductiles Limited, TIF Castings Limited and Tycoon Suppliers Private Limited to Punjab National Bank in terms of the order dated 02/12/2022 in IA(IBC)/1050(KB)2022 passed by this Adjudicating Authority.

19. The Liquidator has submitted his Final Report[4] as per regulation 45 of the Liquidation Process Regulations and Form H, i.e., Compliance Certificate under regulation 45(3) of the Liquidation Process Regulations and the same was duly taken on record by this Adjudicating Authority *vide* order of even date.

20. In view of the above facts and circumstances, we allow the closure of the Liquidation Process of the Corporate Debtor.

[4] Vide IA(IBC)/698(KB)2023

21. The Liquidator shall stand discharged from his responsibilities, subject to all procedural compliances.

22. Both ***IA(IBC)/566(KB)2023*** and ***CP(IB)/2171(KB)2019*** shall stand **disposed of** accordingly**.**

23. 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.

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

25. File be consigned to records.

Balraj Joshi
Member (Technical)

Rohit Kapoor
Member (Judicial)

Signed on this, the 24th day of November, 2023.

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