In the National Company Law Tribunal

Kolkata Bench

Kolkata

C.P. (IB) No. 947/KB/2018

In the matter of:

An application under Section 7 of the Insolvency & Bankruptcy Code, 2016 read with Rule 4 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

And

In the matter of:

BANK OF INDIA, a body corporate constituted under the Banking Companies (Acquisition & Transfer of Undertaking) Act, 1980, having its Head Office at "Star House", C-5, G Block, Bandra-Kurla Complex, Bandra (East) Mumbai – 400051 and one of its branch office at 8A, Lindsay Street, Kolkata 700087, P.S. New Market, commonly/popularly known and reputed as Lindsay Street Branch.

... Applicant/Financial Creditor

Versus

Sd

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In the matter of:

M/s. WHITE & BROWN ALLOY CASTINGS PRIVATE LIMITED, having its registered Office at Flat-2D, Block-B, Vaishnawi Dham, Diamond Harbour Road, Joka, Thakurpukur, Kolkata - 700104

... Corporate Debtor

In the matter of :

BANK OF INDIA	**] Financial Creditor**
WHITE & BROWN ALLOY CASTINGS PVT. LTD.	**] Corporate Debtor**

Date of pronouncement of order : 26/08 /2019

Coram: Shri Jinan K.R, Hon'ble Member (Judicial) &
Shri Harish Chander Suri, Hon'ble Member (Technical)

Counsel on Record :

Mr. Prodyut Banerjee, Advocate	**] For the Resolution Professional**
Mr. Aveek Saha, Advocate	**]**
Mr. Shankar Singh, Advocate	**] For the Applicant Bank**
Mr. M.R. Sarbadhikari, Advocate	**] For the Respondent**

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ORDER

Per Shri Harish Chander Suri, Member (T).

1. This Petition CP(IB) No. 947/KB/2018 under Section 7 read with Rule 4 of the Insolvency & Bankruptcy Code, 2016 has been filed by Bank of India, hereinafter referred to as the "Financial Creditor" against M/s. White & Brown Alloy Castings Pvt. Ltd., hereinafter referred to as the "Corporate Debtor" having its Registered Office at Kolkata.

2. It is submitted that the Financial Creditor had sought initiation of Corporate Insolvency Resolution Process against the Corporate Debtor for its failure to repay the outstanding amount due from the Corporate Debtor to the Financial Creditor to the tune of Rs. 13,65,97,120.31 (Rupees Thirteen Crore Sixty Five Lacs Ninety Seven Thousand One Hundred Twenty and Paise Thirty One Only) for which the default had occurred as the Financial Creditor had placed on record all the relevant documents including the CIBIL Report and proved its case against the Corporate Debtor.

3. This Tribunal vide order dated 10th December, 2018 passed the order of admission and initiation of Corporate Insolvency Resolution Process, thereby appointing Mr. Anil Anchalia, to proceed and perform the duties of the IRP as per the Code and Rules made thereunder. The IRP filed its Ist Progress Report dated 11th January, 2019 and informed this Tribunal about the various

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compliances, like Public Announcements, taking charge of the Bank Accounts, correspondence with various stakeholders, Auditors, Statutory Authorities and Constitution of Committee of Creditors. The decision about the appointment of Resolution Professional was postponed in the first meeting of the CoC.

4. In the 2nd Progress Report dated 05.03.2019 the Ld. IRP continued performing the functions of the Resolution Professional because there was delay in appointment of the Resolution Professional. The Resolution Professional received quotations for appointment of Registered Valuers to determine the fair value and Liquidation value of the Corporate Debtor. It was informed that the promoter Directors of the Corporate Debtor had continued to be non-cooperative in spite of various requests and has withdrawn certain amount from Uco Bank after orders of initiation of CIRP. The appointment of IRP was approved by the Committee of Creditors with 100% voting as the Resolution Professional, and the Apex Insolvency Professionals LLP was engaged as Advisor to assist the RP in managing the CIRP against the Corporate Debtor. In addition to this two Registered Valuers' appointment was also approved.

5. In the 3rd Progress Report dated 21.04.2019 also, the RP sought orders from this Tribunal to direct the Suspended Board of Directors of the Corporate Debtor and Officers to hand over all the statutory records

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including Books of Accounts to the RP forthwith but in spite of that they did not hand over the same. It was further mentioned in the report that the invitation for Expression of Interest (EOI) was published on 04.04.2019 in two Newspapers Financial Express (English daily) and **Ek din** (Bengali daily) and the last date of submission of EOI was 19th April, 2019.

6. In the 4th Progress Report dated 03.06.2019 the Resolution Professional informed this Tribunal that the Fourth Meeting of CoC was held in which the minutes of the 3rd meeting dated 2nd April, 2019 was approved. The RP had visited the Factory of the Corporate Debtor and met the Promoter and Director and informed him about the directions of this Tribunal on 05.03.2019 directing him to hand over the books of accounts of the Corporate Debtor to the RP and he assured that all records of books of accounts along with audited financial statements of preceding 4 (Four) Financial years would be handed over to the Financial Creditor very soon. Meanwhile the valuation of the Fixed Assets had also been carried out by the two appointed Valuers and the Valuation of other assets are still pending as the information is yet to be received from the Promoter Directors of the Corporate Debtor.

7. It was informed by the Resolution Professional that only one EOI had been received and that too was from the Promoter Director of the Corporate Debtor Mr. Aniruddha Mukherjee and no other outside party has shown any

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interest in the Corporate Debtor. The RP has mentioned all the steps taken by him in details in his 4th Progress Report.

8. Next in the series is the 5th and final Progress Report of the RP. It is specifically submitted that the Promoter and Director of the Corporate Debtor only had submitted the Resolution Plan which was rejected in the last CoC meeting and it came to the notice of the RP that Applicant was a wilful defaulter of the Bank and thereby ineligible under Section 29A(b) of IBC 2016.

9. From all the reports received from the RP and all the documents placed on record, it appears to us that in spite of the extension of CIRP by 90 days with effect from 7th June, 2019, since no Resolution Applicant has come forward, this Tribunal has no option but to order Liquidation of the Corporate Debtor in terms of Section 33, Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016. The extended period of CIRP is going to expire on 05th September, 2019. The Ld. Counsel for the RP submits that there is no possibility of resolution of the stressed assets of the CD. He also submits that RP is willing to continue as the liquidator. Accordingly, we hereby order requiring the Corporate Debtor, namely, M/s. White and Brown Alloy Castings Private Limited, to be **liquidated** in the manner laid down in the Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016, upon the following directions:-

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ORDER

i) Mr.Anil Anchalia is appointed as the Liquidator to continue the Liquidation Process;

ii) Mr.Anil Anchalia is directed to issue Public Announcement stating that the Corporate Debtor is in liquidation, in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

iii) The Registry is directed to communicate this Order to the Registrar of Companies, West Bengal and to the Insolvency and Bankruptcy Board of India.

iv) The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under Section 33 (5) of the Insolvency and Bankruptcy Code shall commence.

v) This order is deemed to be a notice of discharge to the Officers, employees and the workmen of the Corporate Debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016.

vi) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016.

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vii) The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within 75 days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.

viii) Copy of this order be sent to the Financial Creditor, Corporate Debtor and the Liquidator by post and by e-mail for taking necessary steps.

ix) **C.P. (IB) No. 947/KB/2018 is disposed of** accordingly.

x) Urgent certified copy of this order, if applied for, be issued to the parties upon compliance of all requisite formalities.

Sd/-

(Harish Chander Suri)
Member (T)

Sd/-
26/8/19
(Jinan K.R.)
Member (J)

Signed on this, the 26th day of August, 2019.

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