

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

**I.A. (IB) No. 554/KB/2023
in
CP (IB) No. 119/KB/2021**

*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:

Meher Oil Industries Pvt. Ltd.

... Operational Creditor

Versus

Swastik Oil Refinery Pvt. Ltd.

... Corporate Debtor

And

In the matter of:

Tapan Chakraborty, Resolution Professional of
Swastik Oil Refinery Pvt. Ltd

...Resolution Professional/ Applicant

Versus

Uma Exports Ltd.

...Resolution Applicant

Date of pronouncement: 03.01.2023

Coram:

Shri Rohit Kapoor, Member (Judicial)

Shri Balraj Joshi, Member (Technical)

**In the National Company Law Tribunal,
Kolkata Bench (Court- I)**

I.A (I.B.C) 554/KB/2023 in C.P (IB) 217/KB/2021

Appearances (via hybrid mode):

For the Applicant/RP:

Mr. Shaunak Mitra, Adv.

Mr. Patita Paban Bishwal, Adv.

Mr. Tapan Chakraborty, RP in person

For the Successful Resolution Applicant in I.A. No. 554 of 2023:

Ms. Urmila Chakraborty, Adv.

Ms. Shreya Choudhary, Adv.

CLARIFICATION ORDER

1. After hearing, the instant matter was reserved for order on 11.08.2023.
2. However, upon perusal of records for preparation of the order, the following points have come to our notice:
 - i. According to the submissions made by the Applicant, the Committee of Creditors (CoC) approved the resolution plan in response to the voting agenda of 13th meeting of CoC dated 04.01.2023, however, according to the records placed before us, no meeting took place on that date.
 - ii. The 13th CoC meeting took place on 05.01.2023 as is reflected from Annexure Q of the Application (Pages 177 to 187). However, the voting result attached therein are from a meeting dated 04.11.2022 (Page No. 187).
 - iii. The 12th CoC meeting was held on 14.12.2022 as is reflected from Annexure P (Pages 169 to 176), however, the voting result attached therein are from a meeting dated 04.11.2022. (Page No. 176).
 - iv. The 11th CoC meeting was held on 28.11.2022 as is reflected from Annexure O (Pages 161 to 168), however, the voting result attached therein are from a meeting dated 04.11.2022. (Page No. 168).
 - v. The Form H annexed as Annexure Z (page 264) mentions the date of approval of resolution plan on 23.02.2023. However, there is no such document which indicates that the voting took place on said date.

**In the National Company Law Tribunal,
Kolkata Bench (Court- I)**

I.A (I.B.C) 554/KB/2023 in C.P (IB) 217/KB/2021

- vi. According to the mandatory contents of the resolution plan (Page 251-253), payment to operational creditor is dealt with in Para V(5) of the resolution plan . But Para V(5) doesn't speak of such payment. Rather, it is given under Para IV- Payments under the resolution Plan in clause 5. As such, the contents of the Table containing the 'mandatory contents to the Resolution Plan' do not corroborate with the preceding paragraphs.

The Applicant is directed to provide clarification regarding the same by way of a supplementary affidavit within the period of 1 week.

3. Let the matter be listed on **10.01.2024**.

Balraj Joshi
Member (Technical)

Rohit Kapoor
Member (Judicial)

Order signed on the 3rd day of January 2024.