

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

I.A. (IB) No. 578/KB/2022

And

I.A. (IB) No. 594/KB/2022

in

C.P. (IB) No. 369/KB/2020

Under section 7 of the Insolvency and Bankruptcy Code, 2016 read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

In the matter of:

DBS Bank Limited ... *Financial Creditor*

versus

Hindusthan National Glass & Industries Limited ... *Corporate Debtor*

And

I.A. (IB) No. 578/KB/2022

An application under section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with rule 11 of the National Company Law Tribunal Rules, 2016.

In the matter of:

Lotus One Investment Pte Ltd.

... *Applicant*

versus

**1. DBS Bank Limited
2. Hindustan National Glass & Industries Limited
3. Girish Siriram Juneja,
Resolution Professional of Hindustan National Glass & Industries
Limited**

... *Respondents*

And

I.A. (IB) No. 594/KB/2022

An application under section 12(2) of the Insolvency and Bankruptcy Code, 2016 read with rule 11 of the National Company Law Tribunal Rules, 2016.

In the matter of:

Girish Siriram Juneja

... *Applicant/Resolution Professional*

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Coram:

Mr. Rohit Kapoor : **Member (Judicial)**

Mr. Balraj Joshi : **Member (Technical)**

Appearances (via hybrid mode):

For the Applicant in I.A. (IB) No. 578/KB/2022 : 1. Mr. Ratnanko Banerji, Senior Advocate
2. Mr. Saurodip Banerjee, Advocate

3. Ms. Anshumala Bansal, Advocate

4. Ms. Prarthana Singha Roy, Advocate

For the Respondent/Applicant in I.A. (IB) 594/KB?2022 : 1. Mr. Vikram Washera, Advocate
2. Ms. Vidushi Chokhana, Advocate

Date of hearing: 12 July 2022

Date of pronouncement: 20 July 2022

COMMON ORDER

Per Balraj Joshi, Member (Technical)

1. This Court convened through hybrid mode today.
2. The Corporate Debtor, Hindusthan National Glass & Industries Limited was admitted into Corporate Insolvency Resolution Process (“CIRP”) vide order dated 21 October 2021 (amended on 22 October 2021) on a petition filed under section 7 of the Insolvency and Bankruptcy Code, 2016 (“Code”) by DBS Bank Limited.

IA (IB) No. 578/KB/2022

3. I.A (IB) No. 578/KB/2022 has been filed by Lotus One Investment Pte. Limited seeking direction upon the Respondent No. 3 to accept the Expression of Interest (EoI) submitted by the Applicant and to evaluate the same and direction upon the Respondent No. 3 and the Committee of Creditors (CoC) to allow and consider the EoI by the Applicant.

Submissions of Mr. Ratnanko Banerji, learned Senior Counsel appearing on behalf of the Applicant

4. The Respondent No. 3, Mr. Girish Sriram Juneja was appointed as the Interim Resolution Professional and was confirmed as the Resolution Professional.
5. The Respondent No. 3 published an Invitation for EoI on 25 March 2022 and a corrigendum was published on 23 April 2022.
6. The Applicant being a Singapore based Company was not aware of the publication made for Invitation for EoI on 25 March 2022.
7. The learned Counsel submits that in the year 2019, the Applicant was in talks with the Corporate Debtor and the consortium of lenders to become a strategic investor in the Corporate Debtor, but the said talks did not materialise at that point of time.
8. It was only after 09 May 2022 that it came to the knowledge of the Applicant that the Corporate Debtor was in CIRP and that EoI has been published. The Applicant submitted EoI on 17 May 2022 as the sole Director of the Applicant was not available.
9. The EoI submitted by the Applicant was rejected by the Respondent No. 3 *vide* email dated 20 May 2022.
10. Mr. Banerji submitted that the Applicant being a Singapore based company had to thereafter take steps to authorize its director in India by way of a power of attorney duly notarized and apostilled in Singapore which process could only be completed by 07 June, 2022 and immediately thereafter, the application was filed by 14 June, 2022.
11. It is further submitted that the Respondent filed minutes of the 5th CoC meeting as well as the 7th CoC meeting. On perusal of the minutes of the 5th CoC meeting dated 18 May 2022, the issue relating to the EOI submitted by the applicant has been discussed and recorded, it is pertinent to note that 3 Prospective Resolution Applicants who had not submitted compliant EOI's was given time to submit the same, and although the list of Prospective Resolution Applicants were not

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finalized, however only the EoI submitted by the Applicant was rejected, even though one of the financial creditors viz. Edelweiss had voted in favor to allow the the Applicant to submit its EoI.

12. In the minutes of the 7th CoC meeting, the CoC has resolved to comply with the directions of this Adjudicating Authority with respect to the present I.A.
13. At this stage no Resolution Plans have even been submitted , let alone considered by the CoC. The Applicant submitted that there shall be no delay on filing the Resolution Plan and it shall endeavour to submit its resolution plan by 23 July 2022.

Submissions of Mr. Vikram Wadhera, the learned Counsel appearing on behalf of the Respondent No. 3

14. The present I.A. has been filed against the rejection of the Applicant's request for submission of Expression of interest.
15. The learned Counsel submitted that in the 4th meeting of the CoC held on 22 April 2022, the Respondent No. 3 apprised the CoC that he had received EoI's, in order to enable larger participation,, the CoC decided to extend the time for submission of the EoI from 24 April 2022 to 09 May 2022. Hence, it is pertinent to note that the last date for submission of EoI was 09 May 2022.
16. The Applicant expressed its desire to submit its EoI via email on 17 May 2022 and requested the Respondent No. 3 to condone the delay in submitting the same.
17. In the 5th CoC meeting held on 18 May 2022, the Respondent No. 3 informed the CoC of the list of thirteen applicants who had submitted their EoI along with the Earnest Money Deposit. The Respondent No.. 3 had further put forward the request of the Applicant to condone the delay in submitting the EoI, the CoC was of the opinion that since the Applicant had failed to submit its EOI within 09 May 2022, therefore the same cannot be accepted. It may be noted that the CoC further stated

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that if the request of the Applicant is considered then that would result in re-opening of the Invitation for EoI process which stood completed on 09 May 2022.

18. The learned Counsel urged us to note that the present application was filed on 15 June 2022 i.e. almost one month after rejection. Furthermore, even after filing the I.A, the Applicant made no attempt to expedite hearing of its application.
19. The Respondent No. 3 has published the final list of the Prospective Resolution Applicants on 29 May 2022 and the last date for submission of Resolution Plan is 23 July 2022.
20. The learned Counsel submitted that the present application was also put to discussion in the 7th Meeting of the CoC held on 20 June 2022 wherein the CoC reiterated its stand.
21. Mr. Wadehra reiterated that the Applicant herein filed its EOI beyond of Regulation 36A of the CIRP Regulations, the EoI as well as the decision of the CoC. The learned Counsel emphasised that the last date for submission of resolution plans is 23 July 2022 and the Applicant herein is still at the stage of submitting its EOI.

I.A. (IB) No. 594/KB/2022

22. I.A.(IB) No. 594/KB/2022 has been filed by Mr. Girish Siriram Juneja, the Resolution Professional of Hindusthan National Glass & Industries Limited praying for extension of the Corporate Insolvency Resolution Process by a period of 90 days on completion of 180 days on 10 July 2022.
23. Mr. Vikram Wadehra, learned Counsel appearing on behalf of the Resolution Professional submitted that CIRP was initiated on 21 October 2021, thereafter, appeal was preferred and an interim order was passed staying the constitution of CoC, which was vacated on 18 January 2022.

24. The period of 82 days i.e. from 23 October 2021 to 18th January 2022 was excluded *vide* order dated 25 April 2022.
25. The CoC in its 6th CoC meeting resolved to seek extension for 90 days with 98.23% voting share.
26. It is submitted that at this stage, as on 06 June 2022, the Applicant has received thirteen Prospective Resolution Applicants and the date to last date to submit Resolution Plan is 23 July 2022. Hence, the Applicant has sought for extension of 90 days for completion of the CIRP from 10 July 2022 to 08 October 2022.

Analysis and Findings

27. Heard the learned Senior Counsel appearing on behalf of the Applicant and the learned Counsel appearing on behalf of the Resolution Professional and perused the records.
28. With respect to I.A.(IB) No. 594/KB/2022, we allow the application and grant 90 days extension from 10 July 2022 till 08 October 2022 for completion of the entire CIRP.
29. In I.A (IB) No. 578/KB/2022, the Applicant has filed its EoI beyond the stipulated timeframe and hence, the Resolution Professional has rejected the request for submission of EoI. However, one must not forget the object of the Code, i.e. maximisation of the assets of the Corporate Debtor. The contention of the applicant that in the meeting , one of the financial creditors namely Edelweiss had strongly vouched for the applicant for having a robust plan, gives us a confidence that we would be taking positive steps towards achieving this objective by allowing a wider participation
30. In this context it is to be noted that the CoC in its 5th meeting had extended the time for submission of the EoI to 9th May , with a view to have a larger competition. At this stage, the process of submission of Resolution Plans is going on hence we find that allowing the present I.A. shall not prejudice the other prospective Resolution Applicants. We

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allow I.A (IB) No. 578/KB/2022 and condone the delay in filing the EoI. The Resolution Professional is directed to provide the applicant with the information memorandum to enable the Applicant to file EoI and Resolution Plan within a day from the date of this order i.e. 21 July 2022, any clarification, if any shall be resolved within a day i.e. 22 July 2022.

31. Considering the judicial time taken for deciding the application, the Applicant shall file its Resolution Plan within three days i.e. 25 July 2022. No further time shall be granted to the Applicant.
32. If the Applicant is found to be eligible, the Resolution Professional shall after due diligence shall place all the Resolution Plans for consideration before the CoC.
33. I.A.(IB) No. 594/KB/2022 and I.A (IB) No. 578/KB/2022 is disposed of with the above directions.
34. List the main Company Petition on **04 August 2022**.
35. The Registry shall e-mail copy of this order to the Counsel on record for the Applicant and for the Resolution Professional, and the Resolution Professional, for information and for taking necessary steps.
36. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Balraj Joshi
Member (Technical)

Rohit Kapoor
Member (Judicial)

Order pronounced on 20th July 2022

GGRB[LRA]