



**IN THE NATIONAL COMPANY LAW TRIBUNAL,
KOLKATA BENCH (Court-II)
KOLKATA**

*IA (IB) No.210 /KB/2023
IN
Company Petition (IB) No. 1412/KB/2018*

*An application under section 60(5) and Section 35 (1) (n) of the Insolvency and
Bankruptcy Code, 2016 and Regulation 44 (2) of the IBBI (Liquidation Process)
Regulations, 2016.*

In the matter of

Punjab National Bank

... Financial Creditor

-Versus-

Divine Alloys and Power Co Limited

... Corporate Debtor

AND

In the matter of

Rajesh Kumar Agrawal, Liquidator of Divine Alloys and Power Co Limited

... Applicant

Date of hearing : 01/02/2023

Order Pronounced on : 12/05/2023

Coram:

Mr. Bidisha Banerjee : Member (Judicial)
Mr. Balraj Joshi : Member (Technical)

Counsels appeared through Video Conference

1. Mr.S.Mitra, Adv.] For the Liquidator



.....
2. Mr.Rajesh Kumar Agrawal,] Liquidator in person

ORDER

Per: Balraj Joshi, Member (Technical)

1. IA (IB) No. 210/KB/2023 is an application filed by Liquidator Sh. Rajesh Kumar Agrawal, under section 60(5) and Section 35 (1) (n) of the Insolvency and Bankruptcy Code, 2016 and Regulation 44 (2) of the IBBI (Liquidation Process) Regulations, 2016 seeking following reliefs:-

- a. To allow the extension by one year of the liquidation period under Regulation 44(2) of the IBBI (Liquidation Process) Regulations, 2016 from the date of pronouncement of order.
- b. Pass an order allowing the Applicant to conduct the sale of the Corporate Debtor as a Going Concern under Regulation 32 and 32A of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and other applicable provision within a period of 90 days of the pronouncement of this order.
- c. Such further and/or other order or orders as this Tribunal may deem fit and proper.

2. It has been stated in the application that an extension of one year is required for selling of CD as a Going Concern. The matter has come up after discussion in the 20th Stakeholders Consultation Committee meeting, the minutes thereof are enclosed as Annexure-C of the application, wherein it has been stated that the Stakeholders discussed and decided to sell the CD as a going concern, so that the value of the CD can be maximized. However in order to do so, an extension of 90 days period for sale of the CD as a going concern is necessitated, as required under Reg 32A(4) of the IBBI liquidation process regulations.



.....
3. In view of the above, IA No.210 of 2023 has been preferred seeking extension of the liquidation period of one year and seeking extension of 90 days for selling the CD as a going concern under Regulation 32A.

4. It has been averred that even though this process has already been taken up once. However, the sale could not go through as the successful Auction Purchaser could not deposit the requisite money in time, thus leading to forfeiture of its EMD.

5. In view of the above, it is apparent that there is strong possibility of the CD being sold as a going concern which is likely to maximize the value as compared to plain liquidation sale and accordingly, we allow this application on the relief as sought in para 36 of the application.

6. Accordingly, this IA is allowed in above terms and disposed of.

7. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

(Balraj Joshi)
Member (Technical)

(Bidisha Banerjee)
Member (Judicial)

Order signed on, this 12th day of May , 2023

PJ