

**DIVISION BENCH**

**O-106**

**NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
KOLKATA**

C.P. (IB)/978(KB)2019

IA/242(KB)2021

IA/1430(KB)2020

IA/243(KB)2021

**Present: 1. Hon'ble Member(J), Shri Rajasekhar V.K.**

**2. Hon'ble Member(T), Shri Harish Chander Suri**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 18<sup>th</sup> March, 2021, 10:30 A.M**

Name of the Company	INDIAN OVERSEAS BANK Vs. SHREE RAM SAW MILL PRIVATE LIMITED		
Under Section	IBC under Sec 7		
Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date

**Counsel / Authorised Representative appeared through video conference:**

1. Mr. Rahul Auddy, Advocate ] For the RP
2. Mr. Kanchan Dutta, RP ] Self
  
1. Mr. A. K. Srivastava, Advocate ] For R-1 & R-2 in IA/1430(KB)2020
2. Mr. Akash Sharma, Advocate ]

**ORDER**

1. Mr. Rahul Auddy, Ld. Counsel for the RP present. Mr. Kanchan Dutta, RP, present in person.  
Mr. A. K. Srivastava, Ld. Counsel for R-1 and R-2 in IA/1430(KB)2020 present.

2. **IA/243(KB)2021** - Allowed vide separate orders passed today.

3. **IA/242(KB)2021** - Allowed vide separate orders passed today.

4. **IA/1430(KB)2020**

(a) This is an application filed by the RP u/s. 70 of the Insolvency and Bankruptcy Code, 2016 against the respondents praying for necessary directions for deliberate non-cooperation and blatant disregard of the orders of this Adjudicating Authority.

(b) After hearing both sides following directions are passed:

- (i) RP shall immediately write to the bankers of the Corporate Debtor and take charge of the bank accounts of the Corporate Debtor;

(ii) Members of the suspended Board of Directors of the Corporate Debtor shall extend all cooperation to the RP. RP and the members of the suspended Board of Directors of the Corporate Debtor shall remain present at the Registered Office of the Company on Saturday, the 20/03/2021 at 11 A.M. wherein the members of the suspended Board of Directors shall identify and handover the documents listed at page 53 of the application, to the RP;

(iii) The computer of the Corporate Debtor where the accounts are stored shall be made immediately operational and physical access to the computer shall be handed over to the RP without fail;

(iv) A meeting to be held at the Registered Office on 20/03/2021 and a List of Documents that are required to be handed over to the RP and separately to the Transaction and Forensic Auditor and Valuer appointed for the purpose shall be drawn up and handed over to the members of the suspended Board of Directors, who shall take steps to ensure that the documents in question reach the persons concerned within a period of 10 days thereafter, i.e., on or before 31/03/2021 positively, failing which adverse consequences will follow.

(v) List this matter on 05/04/2021 for reporting compliance.

**(Harish Chander Suri)**  
**Member (Technical)**

**(Rajasekhar V.K.)**  
**Member (Judicial)**

hb.

IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
KOLKATA

IA No. 242/KB/2021  
in  
CP (IB) No. 978/KB/2019

*Under section 33(1) read with section 33(2) of the  
Insolvency & Bankruptcy Code, 2016*

*In the matter of:*

Indian Overseas Bank

...Financial Creditor

*Versus*

Shree Ram Saw Mill Private Limited  
(CIN : U51909WB1997PTC085985)

...Corporate Debtor

*And*

*In the matter of:*

Mr. Kanchan Dutta,

RP of Shree Ram Saw Mill Private Limited

... Applicant

Order reserved on: 18/03/2021

Order pronounced on: 18/03/2021

*Coram:*

Shri Rajasekhar V.K.

: Member (Judicial)

Shri Harish Chander Suri

: Member (Technical)

*Appearances (through video conferencing):*

For the Applicant :

1. Mr. Rahul Auddy, Advocate
2. Mr. Kanchan Dutta, RP

ORDER

**Per: Rajasekhar V.K., Member (Judicial)**

1. This court convened *via* video conference today.
2. This is an application filed by the Resolution Professional seeking liquidation of the Corporate Debtor, *viz.*, Shree Ram Saw Mill Private Limited [CIN: U51909WB1997PTC085985], on the ground that due to absolute non-cooperation by the suspended members of the Board of Directors of the Corporate Debtor valuation could not be concluded, Information Memorandum could not be prepared and Form 'G' seeking invitation of Expression of Interest could not be published.
3. This Adjudicating Authority *vide* its order dated 16/03/2020 on a Petition filed by Indian Overseas Bank (*financial creditor*) under section 7 of the Insolvency and Bankruptcy Code, 2016 (*'the Code'*) directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor and appointed the Applicant herein as the Interim Resolution Professional (IRP).
4. In terms of section 15 of the Code, public announcement in Form 'A' was made on 18/03/2020 once in "*Business Standard*", (English) and once in "*Aajkaal*", (Bengali). However, soon thereafter due to COVID-19 pandemic, nationwide lockdown and restrictions was imposed and the same was extended from time to time and continued till 31/08/2020.
5. In spite of the directions in an application under section 19 of IBC, there was complete non-cooperation by the suspended members of the Board of Directors of the Corporate Debtor for which an application under section 70 of the IBC has been filed. However, due to aforesaid non-cooperation valuation

could not be concluded, forensic report could not be made, Information Memorandum could not be prepared and Form 'G' seeking invitation of Expression of Interest could not be published.

6. In view of the aforesaid facts, the applicant called the 5<sup>th</sup> CoC meeting on 10/02/2021, wherein the CoC, pursuant to section 33(2) of the Code, had recommended to liquidate the Corporate Debtor and the said resolution was approved by 100% voting share through e-voting concluded on 18/02/2021. The copies of the minutes of the 5<sup>th</sup> CoC meeting and e-voting results are annexed with the application and collectively marked as **Annexure – A** (pages 18-29).
7. The applicant, Mr. Kanchan Dutta, RP, has consented to act as a Liquidator and his consent letter along with Form AFA of the Liquidator is annexed with the application as **Annexure – B** (pages 30-44).
8. *Vide* order dated 18/03/2021 this Adjudicating Authority had granted exclusion of 162 days period from 22/03/2020 to 31/08/2020 thereby the CIRP period has come to an end on 20/02/2021.
9. We have considered the submission made by Mr. Rahul Auddy, Ld. Counsel appearing for the Resolution Professional, the applicant herein, and perused the records.
10. This is a case where Form 'G' could not be published due to non-cooperation on the part of the suspended members of the Board of Directors of the Corporate Debtor as no Information Memorandum could be prepared.
11. The extended period of CIRP has expired on 20/02.2021. Therefore, there is no alternative but to order the liquidation of the Corporate Debtor.

12. This Bench, therefore, hereby orders as follows: -

- a. IA No. 242/KB/2021 filed by Mr Kanchan Dutta, RP of **Shree Ram Saw Mill Private Limited**, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;
- b. Mr. Kanchan Dutta [**Reg. No. IBBI/IPA-001/IP-P00202/2017-2018/10391**], is hereby appointed as Liquidator as provided under section 34(1) of the Code, subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019.
- c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, *i.e.*, *Business Standard* (English) and *Aajkaal* (Bengali) of Kolkata edition of the said newspapers stating that the Corporate Debtor is in liquidation.
- e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
- f. The personnel of the Corporate Debtor are directed to extend all assistance

and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

- g. On initiation of the liquidation process but subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.
  - h. In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.
  - i. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, Kolkata, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.
13. The application bearing **IA No. 242/KB/2021** shall stand disposed of in accordance with the above directions.
14. **CP (IB) No. 978/KB/2019** to come up for filing of periodical report on **03.05.2021**.
15. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Id. Counsel for information and for taking necessary steps.

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

Harish Chander Suri  
Member (Technical)

Rajasekhar V.K.  
Member (Judicial)

Signed on this, the 18<sup>th</sup> day of March, 2021.

hb.

IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
KOLKATA

IA No. 243/KB/2021  
in  
CP (IB) No. 978/KB/2019

*Under section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with  
regulation 40C of the IBBI (Insolvency Resolution Process for  
Corporate Persons) Regulations, 2016*

*In the matter of:*

Indian Overseas Bank

...Financial Creditor

*Versus*

Shree Ram Saw Mill Private Limited  
(CIN : U51909WB1997PTC085985)

...Corporate Debtor

*And*

*In the matter of:*

Mr. Kanchan Dutta,

RP of Shree Ram Saw Mill Private Limited

... Applicant

Order reserved on: 18/03/2021

Order pronounced on: 18/03/2021

*Coram:*

Shri Rajasekhar V.K.

: Member (Judicial)

Shri Harish Chander Suri

: Member (Technical)

*Appearances (through video conferencing):*

For the Applicant :

1. Mr. Rahul Auddy, Advocate
2. Mr. Kanchan Dutta, RP

**ORDER**

***Per: Rajasekhar V.K., Member (Judicial)***

1. This Tribunal convened via video conference.
2. IA/243(KB)2021 is an application filed by Mr. Kanchan Dutta, RP under sub-section (5) of section 60 of the Insolvency and Bankruptcy Code, 2016 read with regulation 40C of the IBBI (Insolvency Process for Corporate Persons) Regulations, 2016 praying for exclusion of 162 days from 22/03/2020 to 31/08/2020 on account of nationwide lockdown and restrictions imposed due to COVID-19 pandemic as a result of which the RP could not conduct the CIRP in the matter effectively.
3. It is submitted by the Ld. Counsel appearing for the RP that the Corporate Debtor was admitted under CIRP *vide* order dated 16/03/2020 appointing Mr. Kanchan Dutta as the IRP.
4. Public announcement in terms of the regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 was made once in “*Business Standard*” in English and once in “*Aajkaal*” in Bengali on 18/03/2020. However, soon thereafter due to COVID-19 pandemic nationwide lockdown and restrictions was imposed. The same was extended from time to time and continued till 31/08/2020.
5. Ld. Counsel for the RP submits that without considering the period of lockdown, the 180 days period had ended on 12/09/2020 but considering the period of lockdown from 22/03/2020 to 31/08/2020, the period of 180 days had ended on 20/02/2021.
6. Ld. Counsel for the RP further submits that in spite of the directions of this Adjudicating Authority there was absolute non-cooperation by the suspended members of the Board of Directors of the Corporate Debtor for which an

application under section 70 of the IBC has been filed. However, due to aforesaid non-cooperation, valuation could not be concluded, forensic report could not be made, Information Memorandum could not be prepared and Form 'G' seeking invitation of Expression of Interest could not be published.

7. It is also submitted by the Ld. Counsel appearing for the RP that at the 5<sup>th</sup> CoC meeting held on 10/02/2021, and in the e-voting concluded on 18/02/2021, has passed a resolution with 100% voting share to liquidate the Corporate Debtor as there have been absolute non-cooperation on the part of the suspended members of the Board of Directors of the Corporate Debtor.
8. We have perused the application and heard the Ld. Counsel for the RP. We are satisfied that the prayer made in the IA should be allowed. Therefore, the 162 days period from 22/03/2020 till 31/08/2020 shall stand excluded from the CIRP period.
9. IA/243(KB)2021 shall stand disposed of accordingly.
10. 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.
11. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Harish Chander Suri  
Member (Technical)

Rajasekhar V.K.  
Member (Judicial)

Signed on this, the 18<sup>th</sup> day of March, 2021.

hb.