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

IA(IBC)/443(KB)2022
in
CP(IB)/1172(KB)2019

Under section 33 of the Insolvency & Bankruptcy Code, 2016

In the matter of

State Bank of India

...Financial Creditor

Versus

Adi Ispat Private Limited.
(CIN: U27104JH2004PTC010861)

...Corporate Debtor

And

In the matter of

Mr. Daulat Ram Jain,
Resolution Professional of Adi Ispat Private Limited

… Applicant

Order reserved on: 19/09/2022

Order pronounced on: 27/09/2022

Coram:

Shri Rohit Kapoor	:	Member (Judicial)
Shri Balraj Joshi	:	Member (Technical)

Appearances (through video conferencing):

For RP	:	Ms. Tripti Agarwal, Pr. CA Mr. Daulat Ram Jain, RP in person
For RP	:	Mr. Rahul Parasrampuria, Pr. CS

For RP in IA/314/2022	:	Mr. Rohit Kr. Keshri, Adv.
For State Bank of India	:	Ms. Paramita Trivedi, Adv. Mr. Shiven Ray, Adv.

O R D E R

Per: Rohit Kapoor, Member (Judicial)

1. This Adjudicating Authority convened through hybrid mode.

2. IA(IBC)/443(KB)2022 is an application filed by the Resolution Professional of Adi Ispat Private Limited, the Corporate Debtor, seeking liquidation of the Corporate Debtor in terms of the resolution passed by the CoC in its meeting held on 07/05/2022 A copy of the minutes of the CoC is at page 23 and the resolution passed by the CoC is at item no.04 at pages 24 to 25 of the instant application, recommending to sell the Corporate Debtor as a going concern. This application is duly supported by an affidavit affirmed by Mr. Daulat Ram Jain, RP, which is at page 17 of this application.

3. This Adjudicating authority *vide* order dated 22/11/2019 in CP(IB)/1172(KB)2019 had ordered initiation of CIRP against the Corporate Debtor and appointed Mr. Sanjay Kumar Agarwal as the Interim Resolution Professional (IRP). Public Announcement[1] in **Form A** was published on 27/11/2019 and Committee of Creditors (**"CoC")** with sole member, State Bank of India, was duly constituted on 16/12/2019. The CoC at its first meeting held on 21/12/2019 resolved to appoint the IRP as the Resolution Professional (RP). Meanwhile, the Financial Creditor came to know that Mr. Sanjay Kumar Agarwal, RP was apprehended by the Central Bureau of Investigation on the charge of bribery. Last CoC meeting was held on 15/01/2020 and no steps have been taken in the CIRP by Mr. Sanjay Kumar Agarwal. RP.

[1] Paragraph 6 at page 9 of the application

4. *Vide* order dated 21/09/2021 on an application filed by the Financial Creditor, being IA(IB)/296(KB)2021, this Adjudicating Authority had appointed Mr. Daulat Ram Jain, the applicant herein, as Resolution Professional by replacing Mr. Sanjay Kumar Agarwal, erstwhile RP.

5. *Vide* order dated 10/01/2022 passed in IA(IBC)/1074(KB)2021, this Adjudicating Authority had granted 591 days exclusion from 11/02/2020 to 23/09/2021 and extension of 90 days w.e.f. 31/12/2021, which has ended on 31/03/2022.

6. *Vide* order dated 06/04/2022 passed in IA(IBC)/295(KB)2022, this Adjudicating Authority further excluded 45 days from the CIRP period on account of COVID restrictions imposed by the State Government, thereby the CIRP period has come to an end on 15/05/2022.

7. Expression of Interest **("EoI")** was invited on 03/12/2021 which was subsequently revised on 05/01/2022. In response to EoI, two Resolution Plans were received, which were placed before the CoC at its 12th CoC meeting held on 07/05/2022. However, CoC did not approve the same. Copy of voting results and minutes of the meeting are annexed at pages 20 to 25 of the application.

8. The CoC at its 12th meeting held on 07/05/2022 (paragraph H at pages 12 and 13 of the application) has unanimously recommended liquidation of the Corporate Debtor as a going concern since the CoC has not approved any of the plans placed before the CoC.

9. In this connection, it is to be mentioned here that Ms. Paramita Trivedi, Ld. Counsel appearing for the Financial Creditor, State Bank of India, who is the sole member of the CoC, stated at the Bar that Financial Creditor has no objection, if the Corporate Debtor is put into liquidation.

10. The Resolution Professional has given his consent to act as Liquidator of the Corporate Debtor along with his Authorisation For Assignment ("**AFA**") valid till 21/04/2023. Copy of consent letter along with AFA are annexed at pages 26 and 27 of the application.

11. Sub-section (2) of section 33 of the Code requires the Adjudicating Authority to pass the liquidation order where the Resolution Professional intimates to the Adjudicating Authority the decision of the Committee of Creditors approved by not less than 66% of the voting share to liquidate the Corporate Debtor. Also the CIRP period has come to an end on 15/05/2022.

12. Therefore, this Adjudicating Authority is left with no option but to order liquidation of the Corporate Debtor.

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

a. IA(IBC)/443(KB)2022 filed by **Daulat Ram Jain, RP** of **Adi Ispat 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. Daulat Ram Jain, RP [Reg. No. IBBI/IPA-001/IP-P00945/2017-2018/11565]**, having e-mail i.d. daulatjain@rediffmail.com and telephone nos. +91 98300 59845/+91 70031 98184 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, 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, Jharkhand**, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the **Registrar of Companies, Jharkhand.**

14. The application bearing **IA(IBC)/443(KB)2022** shall stand disposed of in

accordance with the above directions.

15. **CP(IB)/1172(KB)2019** is to come up for filing of periodical report on **02/12/2022.**

16. 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.

17. 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)

Signed on this, the 27th day of September, 2022

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