

IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
KOLKATA

IA No. 135/KB/2021  
in  
CP (IB) No. 1406/KB/2018

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

*In the matter of*

Oriental Bank of Commerce  
(CIN: U65191DL1901PLC002036)

...Financial Creditor

*Versus*

Bala Techno Industries Limited  
(CIN: L17299WB1990PLC049886)

...Corporate Debtor

*And*

*In the matter of*

Mr. Anil Anchalia  
RP of Bala Techno Industries Limited

... Applicant

Order reserved on: 09/02/2021

Order pronounced on: 15/02/2021

*Coram:*

Shri Rajasekhar V.K. : Member (Judicial)

Shri Harish Chander Suri : Member (Technical)

*Appearances (through video conferencing):*

For the Applicant : Mr Anil Anchalia, RP

ORDER

***Per: Harish Chander Suri, Member (Technical)***

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.*, Bala Techno Industries Limited [CIN: L17299WB1990PLC049886], on the ground that the no Resolution Plan received by him in spite of publication of **Form G** thrice.
3. This Adjudicating Authority *vide* its order dated 15.10.2019 on a Petition filed by Oriental Bank of Commerce (*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). A copy of the order dated 15.10.2019 is annexed with the application as **Annexure – A**.
4. In terms of section 15 of the Code, public announcement in Form 'A' was made.
5. CoC was duly constituted and the first meeting of CoC was held on 14/11.2019, wherein the IRP was appointed as the RP by 100%

voting share and the same was recorded *vide* order dated 05.12.2019. A copy of the order dated 05.12.2019 is annexed with the application as **Annexure – B**.

6. Upon approval from the CoC, invitation for EoI was published in Form 'G' thrice on 28.12.2019 in *Business Standard* (English) and *Aajkaal* (Bengali); 22.01.2020 in *Financial Express* (English) and *Ekdin* (Bengali) and 22.09.2020 in *Business Standard* (English) and *Ekdin* (Bengali), all Kolkata edition respectively fixing the last date for receipt of EoI as 12/01/2020, 06/02/2020 and 07/10/2020. Copies of Form G are annexed with the application and collectively marked as **Annexure – C**.
7. Pursuant to third EoI, the Applicant though received an EoI from one Acme Safety Wears Ltd. and the last date of submission of Resolution Plan was 12.11.2020, but did not receive any Resolution Plan from the prospective resolution applicant.
8. In view of the aforesaid facts, the applicant called the 7<sup>th</sup> CoC meeting on 23.11.2020, wherein the CoC, pursuant to section 33(2) of the Code, had passed the resolution for initiation of liquidation against the Corporate Debtor and the said resolution was approved through e-voting on 09.12.2020. The copies of the minutes of the 7<sup>th</sup> CoC meeting and e-voting results are annexed with the application and collectively marked as **Annexure – D**.
9. Accordingly, the applicant called the 8<sup>th</sup> CoC meeting on 07/01/2021 wherein the applicant proposed his fees to act as the

Liquidator at 85% of fees prescribed under regulation 4(2) of IBBI (Liquidation Process) Regulation, 2016 and placed the resolution before the CoC for their approval. Upon e-voting on 16/01/2021, the CoC has passed the said resolution by approving the fees of the Liquidator and also approved the resolution for estimated liquidation cost with 100% voting power. The copies of the minutes of 8<sup>th</sup> CoC meeting and e-voting results are annexed with the application and collected marked as **Annexure - E** .

10. The applicant, Mr. Anil Anchalia, RP, has consented to act as a Liquidator and his consent letter is annexed with the application as **Annexure F**.
11. *Vide* order dated 04.11.2020 this Adjudicating Authority had granted exclusion of 18 days from 25/03/2020 to 11/04/2020 as well as extension of CIRP period by a further period of 90 days w.e.f. 01/11/2020 thereby the CIRP period has come to an end on 29/01/2021. A copy of the order dated 04/11/2020 is annexed with the application and marked as **Annexure – G**.
12. We have considered the submission made by Mr. Anil Anchalia, Resolution Professional, the applicant herein, and perused the record.
13. This is a case where no Resolution Plan has been received in spite of publication of Form G thrice and there is no Resolution Plan for consideration of the CoC. The extended period of CIRP has expired on 29.01.2021. Therefore, there is no alternative but to order the liquidation of the Corporate Debtor.

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

- a. IA No. 135/KB/2021 filed by Mr Anil Anchalia, RP of **Bala Techno Industries 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. Anil Anchalia [Reg. No. IBBI/IPA-001/IP-P00049/2017-2018/10123], 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.
15. The application bearing **IA No. 135/KB/2021** shall stand disposed of in accordance with the above directions.
16. **CP (IB) No. 1406/KB/2018** to come up for filing of periodical

report on **21.05.2021**.

17. 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.
18. 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 15<sup>th</sup> day of February, 2021.

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