

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

**IA(I.B.C)/974(KB)2023
in
C.P. (IB)/409(KB)2021**

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

In the matter of:

State Bank of India

...Financial Creditor

-Versus-

In the matter of:

Hardrock Attachments Private Limited

...Corporate Debtor

And

In the matter of:

Silver Stallion Limited

... Applicant

-Versus-

Mr. Daulat Ram Jain, RP of M/s Hardrock Attachments Private Limited

... Respondents

Date of Hearing: 29.09.2023

Date of Pronouncement: 20.12.2023

Coram:

Shri Rohit Kapoor

: Member (Judicial)

Shri Balraj Joshi

: Member (Technical)

Appearances (via video conferencing/physically)

Mr. Satadeep Bhattacharyya, Adv. : For the Applicant in IA 974/2023

Mr. Sourojit Dasgupta, Adv. : For the RP

Mr. Nikunj Berlia, Adv.

Ms. Saolini Bose, Adv.

ORDER

Per: Rohit Kapoor, Member (Judicial)

1. The Court convened through hybrid mode.
2. Through the medium of this IA, applicant is seeking to include the name of applicant as the eligible prospective resolution applicant and allow the applicant to submit the Resolution Plan to be considered by the CoC.
3. Admittedly, there has been delay on the part of applicant to submit the Resolution Plan as per the timelines fixed by RP. While seeking relief at this stage, applicant states that ;-
 - i. There were some defects pointed out by the RP in terms of submission of some additional documents in EOI submitted by applicant.
 - ii. Applicant *vide* email dated 24th of February 2023 commented on the defects pointed out by the RP *vide* its email dated 18th of February, 2023.
 - iii. RP *vide* its e-mail dated 20th of March, 2023 again sought rectification of defects from the applicant. Applicant *vide* its e-mail dated 21st of March, 2023 informed the RP that the defects have been cured and he was informed of it *vide* e-mail dated 24th of February, 2023.
 - iv. *Vide* e-mail dated 21st of March, 2023, applicant requested the respondent to verify the documents so that the hard copy of the documents can be couriered to the respondent. RP did not reply to the e-mail dated 21st of March, 2023 and subsequently, on 31st of March, 2023 published the provisional list of PRA's.
 - v. Applicant *vide* e-mail dated 6th of April, 2023 shared the net worth certificate and *vide* e-mail dated 6th of April, 2023, applicant also shared

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- Board Minutes of applicant company, Confidentiality Agreement and Undertaking as was required by the RP.
- vi. The documents as sought by PRAs which is provisional list of RP were shared with the RP on 6th of April, 2023 and before the due date of issuance of list of PRAs.
 - vii. RP vide e-mail dated 13th of April, 2023 again mark some defects in respect of the documents submitted by the applicant. RP while notifying defects earlier e-mail dated 18th of February, 2023 did not notify all defects and was informing the applicant in piecemeal.
 - viii. To the utter surprise of applicant, respondent on 15th of April, 2023 circulated the list of final PRAs which did not include the name of applicant. On 13th of April, 2023, respondent again marked some additional defects without providing any time to the to the applicant to respond and cure the defects and the final list of PRAs was issued in haste.
 - ix. Applicant *vide* another email dated 19th of April, 2023 sent a detailed profile of applicant and signed balance-sheet to the respondent, thereby satisfying all the queries raised by the respondent. There was no response from the RP/respondent and vide email dated 20th of April, 2023, applicant enquired from PRAs about the status of applicant.
 - x. RP/respondent vide email dated 20th of April, 2023, informed the applicant that the final list of PRAs has already been issued on 15th of April, 2023 and the name of the applicant is not there. There was no lapse on the part of the applicant and he fulfilled all the requirements as sought by the RP.
4. Applicant has filed this IA on 13th of May, 2023 seeking directions to the RP to submit his Resolution Plan and to be considered by CoC.
5. RP has filed its reply affidavit. The stand taken by the RP is summarized as under :-
- i. The applicant was negligent since beginning in submitting his EOI with complete documents and he failed to rectify the defects as pointed out

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- by the RP. In view of the timelines, RP was duty bound to publish the final list on 15th of April, 2023
- ii. Applicant submitted documents through its representative vide e-mail dated 11th of April, 2023, but the documents were again found defective and he was communicated of it by RP on 13th of April, 2023. The defects were addressed by the applicant on 19th of April, 2023 and the physical copy of EOI was received on 24th of April, 2023.
 - iii. Since CIRP is strictly a time bound process, and accordingly the applicant was not included in the final list of prospective resolution applicant, therefore, this application deserves to be dismissed.
6. Heard the Ld. Counsel for the parties and perused the record.
 7. In view of the facts and documents on record, it is an admitted position, the EOI of applicant was deficient for want of certain documents as asked by the RP. We are of the view that applicant was bound to submit all the documents and the requisite information in the first instance itself while submitting his EOI.
 8. Timelines under IBC have a definite purpose and cannot be ignored by RP. It is also clear, the applicant was afforded multiple opportunities to rectify the defects, however, it could not do so within the time provided by the RP in line with the CIRP time matrix. It is not the case of the applicant that these document/information was not required by the RP.
 9. In view of the above position, we are of the view, RP was correct in publishing in the list of PRAs on 15th of April, 2023 and the case of the applicant could not be considered for want of requisite documents/information.
 10. For the above reasons, we do not find any merit in this IA and this IA(I.B.C)/974(KB)2023 is, accordingly, **rejected**.

Balraj Joshi
Member (Technical)

Rohit Kapoor
Member (Judicial)

Order signed on 20th day of December, 2023.

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