

NATIONAL COMPANY LAW TRIBUNAL
COURT No. – I, MUMBAI BENCH

*** **

IA No. 1488/2020,
IA No. 2231/2020
&
IA No. 2241/2020
in
CP (IB) No. 1003/MB/2019

Allahabad Bank
V/s
Suman Agritech Limited

*** **

Dated 13th January, 2021

ORDER

12. The matter is taken up on VC. Mr. P.S. Thakre, Ld. PCS appearing on behalf of the Applicant is present.

IA No. 2231/2020:-

This is an Application filed by the Resolution Professional for the exclusion of 50 days period from the Corporate Insolvency Resolution Process (CIRP) which ended on 15/10/2020.

Ld. Practising Company Secretary appearing on behalf of the Applicant submits that the CIRP in this matter was ordered on 27/08/2019 and it came to an end on 15/10/2020 after taking into account the extension granted.

It is submitted by the PCS for the Applicant that the Resolution Plan submitted by one Resolution Applicant was rejected by the CoC in the meeting held on 05/10/2020 and the Application for liquidation of Corporate Debtor was filed on 23/11/2020. The

Applicant seeks to exclude the period of 05/10/2020 to 23/11/2020 and submits that due to Covid pandemic the CoC could not decide the appointment of liquidator and hence there is delay in filing the liquidation Application and seeks to exclude above said period of 50 days from CIRP.

Heard the learned Practising Company Secretary for the Applicant and on being satisfied with the explanation for the exclusion of 50 days, this Bench hereby excludes the 50 days period from CIRP as prayed for.

Accordingly, IA No. 2231 of 2020 is allowed.

IA No. 2241/2020:-

This is an Application filed by the Resolution Professional seeking the order of Liquidation under Section 33 of the Code for the reason that the Resolution Plan submitted by the Prospective Resolution Applicant was rejected by the CoC.

It is submitted that the Corporate Insolvency Resolution Process (CIRP) was ordered on 27/08/2019 and after taking into account the extension given, the CIRP period expired on 05/10/2020.

Practising Company Secretary appearing on behalf of the Resolution Applicant submits that CIRP was conducted in respect of this Corporate Debtor in accordance with the provisions of the Code and CoC has rejected the Resolution Plan submitted by a Resolution Applicant in the meeting held on 05/10/2020.

It is submitted that 53% of CoC voted in favour of the Resolution Plan and 57% of CoC voted against the Resolution Plan. Further it is submitted that CoC passed Resolution to liquidate the Corporate Debtor. However there is no resolution from CoC for appointment of Liquidator.

It is submitted that even though the Resolution Professional has given his consents to act as a liquidator of the Corporate Debtor, CoC has rejected the proposal for appointment of the Resolution Professional as the Liquidator of the Corporate Debtor and in fact there is no resolution for appointment of liquidator.

Considering the fact that there is no Resolution Plan approved by the CoC and in view of the fact that the CIRP period ended, we are ordering liquidation of the Corporate Debtor under Section 33 of the Code with the following directions:

- a) The Corporate Debtor i.e. Suman Agritech Limited shall be liquidated in the manner as laid down in Chapter-III of the Code.
- b) Since no liquidator has been proposed by CoC, this bench by invoking Rule 11, appoints Mr. Gopal Krishana Saraswat, (IBBI Registration No. IBBI/IPA-001/IP-P00620/2017-2018/11076, an Insolvency Professional as the liquidator.
- c) He shall issue public announcement stating that Corporate Debtor is in liquidation.
- d) The Moratorium declared under Section 14 of the IBC 2016 shall cease to operate here from.
- e) Subject to section 52 of the IBC 2016 no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- f) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- g) The liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.

- h) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- i) The Liquidator shall be entitled to such fees as may be specified by the Board in terms of Section 34 (8) of the Code.
- j) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- k) Copy of the Order shall be furnished to the IBBI, to the Regional Director (Western Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Maharashtra, the Registered Office of the Corporate Debtor; and the Liquidator.

IA No. 1488/2020:-

This is an Application for a direction to the CoC to pay the CIRP Cost. The copy of the Application has not been served on the CoC.

Applicant is directed to serve the copy of the Application to the other side and inform the next date of hearing to the other side.

List this matter on 11/02/2021 for hearing.

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/-

H.P. CHATURVEDI
Member (Judicial)

Steno: -Vedant Kedare