

NATIONAL COMPANY LAW TRIBUNAL

KOCHI BENCH, KERALA

MA(IBC)/03/KOB/2021

in

IBA/258/2019 Chennai Bench

(Under u/s 60(5)(c) of IBC, 2016 r/w Rule 11 of NCLT Rules, 2016)

Order delivered on: 30th April 2021

Coram:

Hon'ble Mr. Ashok Kumar Borah, Member (Judicial)

Applicant

Shri Ravindra Chaturvedi

Liquidator

Excel Glasses Ltd, Alappuzha.

C/o. Parekh Shah & Lodha, 31E,
BKC Centre, Laxmi Industrial Estate,
New Link Road, Andheri (W),
Mumbai-400 053.

In the matter of

M/s. Boon Investment and Trading
Company Private Limited
612 Raheja Chambers,
Nariman Point, Mumbai 400 021

..Financial Creditor

Vs.

M/s. Excel Glasses Limited
Udaya Nagarpathirapally,
P.O. Alleppey, Kerala-688 521

**..Corporate Debtor
(Under Liquidation)**

Appearance:

For Applicant/Liquidator - Shri Ravindra Chaturvedi
(Liquidator)

1. This Order has arisen upon the application filed by the Liquidator under Section 60(5)(c) of the Insolvency and Bankruptcy Code, 2016 ("Code") read with Rule 11 NCLT Rules seeking necessary directions of this Tribunal for necessary police protection/assistance to be provided by (a) Station House Officer, Mannancherry Police Station, Alappuzha and (b) District Police Chief, Alappuzha ("Police Authorities") to ensure that the process of sale of assets of Corporate Debtor (under liquidation) proceeds without obstructions to the successful bidder/auction purchaser. According to the Liquidator, a mob/group of persons claiming to be represented the ex-workmen of the Corporate Debtor have created trouble and obstacles in handing over of the property to the successful bidder/auction purchaser.
2. The Application for Corporate Insolvency Resolution Process filed by Boon Investment and Trading Company Private Limited (Financial Creditor) against Excel Glasses Limited (Corporate Debtor) was admitted by NCLT, Chennai Bench vide order dated 26.03.2019 in IBA/258/2019.
3. Liquidation Proceedings were initiated against the Corporate Debtor Vide order dated 21.10.2019 of this Tribunal and consequently, the Applicant was appointed as Liquidator.
4. The Liquidator/Applicant in compliance of the Regulation 12 of the Liquidation Regulations had issued a public announcement in Form B, inviting fresh

claims from all the creditors of the Corporate Debtor and the last date of submission was 20.11.2019.

5. Meanwhile, the employees/workmen had preferred Original Petition (Civil) 484/2020 before the Hon'ble Kerala High Court challenging the Liquidation Order as well as seeking direction of the Hon'ble Kerala High Court to the Liquidator/Applicant for consideration of their claims, wherein an interim stay was granted to the Petitioners vide its Order dated 20.02.2020. However, the Hon'ble Kerala High Court vide its Order dated 13.07.2020 disposed of the said Petition stating that since the grievances of the Petitioners against the Liquidator's decisions are appealable under Section 42 of the Code, it is not just and proper for the Hon'ble High Court to pass any order exercising its supervisory jurisdiction. Accordingly, it was ordered that the liquidation proceedings shall continue according to the Liquidation Order dated 21.10.2019. The order further stated that Liquidator can pursue sale of assets, however the distribution of sale proceeds could commence only after disposal of Sec 42 appeals at Hon'ble NCLT.
6. This Tribunal vide order dated 10.08.2020 has allowed the IA No.78 of 2020, which was filed for modification in the list of stake holders.
7. The Liquidator/Applicant submitted that he conducted the e-auction wherein one M/s. Rajeswari Glass wares submitted its bid and become the successful bidder with respect to the Block 5, ie. Stocks / Inventories at the Factory. The Auction purchaser has made the payment for sale consideration and interest

thereon including GST as applicable. Pursuantly the Liquidator/Applicant had issued a Sale Certificate in favour of the Auction Purchaser.

8. The Liquidator further submitted that the authorised representative of the Auction Purchaser visited the factory premises of the Corporate Debtor for the purpose of taking over the possession of the stocks/inventories purchased by the Auction Purchaser. However, a mob/group of persons said to be employees/workmen of the Corporate Debtor have started obstructing by stopping the transport vehicles from going out and did not allow the stocks/inventories to leave the factory premises. Hence, the Auction Purchaser was threatened and illegally prevented from completing the legally valid process of taking rightful possession of the said stocks/inventories.
9. The Liquidator further submitted that he has written a Complaint to the Station House Office of Mannancherry Police Station, Alappuzha, Kerala, requesting for police protection to enable the Auction Purchaser to take the rightful possession of the stocks/inventories.
10. The liquidator has also cited a report, which has been published in 'Manorama' newspaper dated 22.04.2021 wherein it was specifically mentioned that the blockade was led by the Trade Union leaders Mr. Rajesh Joseph of CITU, PG Anilkumar of INTUC and S Prasad of AITUC.
11. Hence the Liquidator/Applicant has preferred the instant Miscellaneous Application under Section 60(5)(c) of the Code read with Rule 11 of the NCLT Rules seeking adequate police protection so that the sale process can be

completed and the dues payable to stakeholders including workmen / employees can be paid speedily.

12. I have heard the learned Liquidator through video conferencing and also have gone through the records. Having satisfied with the reasons as mentioned in the MA and in the light of the provisions of Insolvency and Bankruptcy Code, 2016, this Tribunal is of the opinion that it would be just and equitable to order Police Protection in this Liquidation Process. Hence this Tribunal pass the following order: -

O R D E R

The Superintendent of Police / District Police Chief, Alappuzha is directed to ensure that the Successful Bidder / Auction Purchaser is able to take safe delivery and possession of the assets of the Corporate Debtor M/s. Excel Glasses Limited purchased under auction as per the provisions of the IBC, 2016.

Accordingly, MA(IBC)/03/KOB/2021 in IBA/258/2019 is allowed.

Registry is directed to issue copy of this Order to the Liquidator as well as to District Police Chief, Allappuzha through email.

Dated the 30th day of April, 2021

Sd/-

**Ashok Kumar Borah
Member (Judicial)**