

Through Videoconference

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT No. - I

IA No. 822 of 2021
in
C.P. (IB) No. 2096/MB/2019

Application u/s. 60(5)(c) of the I&B Code, 2016 read with
Regulation 31(3) of the Insolvency and Bankruptcy Board of India
(Liquidation Process) Regulations, 2016

Santanu T. Ray,
Liquidator for Firestar Diamond International Pvt. Ltd.,
Registration No. IBBI/IPA-002/IP-N00360/2017-18/11055
A-301, BSEL Tech Park,
Sec. 30A, Opp. Vashi Railway Station,
Vashi - 400 705 ... Applicant

In the matter of
C.P. (IB) No. 2096/MB/2019

Corporation Bank ... Financial Creditor
V/s
Firestar Diamond International Private Limited ... Corporate Debtor

Date of Order: 29 .07.2021

CORAM:
Shri. Bhaskara Pantula Mohan, Hon'ble Acting President
Shri. Narendra Kumar Bhola, Hon'ble Member (Technical)

Appearance:
For the Applicant: Ms. Rubina Khan, Advocate.

Sd/-

Per: Narendra Kumar Bhola, Member (Technical)

ORDER

1. The present Application is filed by the Applicant under Section 60(5)(c) of the Insolvency and Bankruptcy Code, 2016 (the Code) read with Regulation 31(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (Liquidation Process Regulations) seeking modification in the list of stakeholders of the Corporate Debtor.
2. Brief facts leading to the Application are as under.
 - i. Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated by this Bench by order dated 25.09.2019 upon admission of a Petition under Section 7 of the Code and Mr. Ram Ratan Kanoongo was appointed as the Interim Resolution Professional (IRP).
 - ii. Further, as the Corporate Debtor was not a going concern and as the recovery actions had already been initiated by the Banks against the Corporate Debtor, the Committee of Creditors (CoC) in 4th meeting held on 02.12.2019 passed a resolution for liquidation of the Corporate Debtor with 98.5% voting share.
 - iii. Subsequently, this Tribunal *vide* Order dated 26.02.2020 commenced the liquidation process of the Corporate Debtor and appointed Mr. Santanu T. Ray, the Applicant herein, as the Liquidator.
 - iv. Accordingly, the Applicant in compliances of Regulation 12 of Liquidation Process Regulations, made a public

Sd/-

announcement on 03.03.2020 intimating the commencement of liquidation process and calling upon the stakeholders to file their claims. As per the public announcement the last date for submission of claims was 02.04.2020.

- v. The Applicant received claims from various stakeholders and verified the same. Further, in compliance with Regulation 31(2) and Regulation 12 of the Liquidation Process Regulations, the Applicant made a public announcement with reference to the list of the stakeholders.
- vi. It is submitted that on 04.03.2020 the Government of India issued a notification sanctioning the *Scheme of Amalgamation* of Oriental Bank of Commerce and United Bank of India into Punjab National Bank. Prior to this notification, all the three Banks had submitted their respective claims during the CIRP and the same were fully admitted by the IRP. On 25.09.2020, the Punjab National Bank including the claim of Oriental Bank of Commerce and United Bank of India, submitted a revised and consolidated claim in Form - D for ₹.93,66,29,56,152.20/-. The same was provisionally admitted for amount of ₹. 93,64,66,32,811.26/- upon verification.
- vii. It is further submitted that apart from the above consolidated claim, the Applicant also received claims from operational creditors and workmen & employees on dates ranging between 31.07.2020 to 08.09.2020.

Sd/-

viii. The Applicant states that, as the provisions of the Code and Liquidation Process Regulations are not clear with respect to whether the claims furnished by the stakeholders after the stipulated period shall be admitted or not, the Applicant received and provisionally admitted or rejected the claims filed by the above stakeholders after the due date in the interest of justice. Hence, this Application.

3. We have heard the learned counsel for the Applicant and have perused the records. The last date for receiving the claims from the stakeholders as stated in the public announcement was 02.04.2020. However, on 02.04.2020 the whole country was under lockdown imposed by the Central Government (from 23.03.2020) in view of the Covid-19 Pandemic. The trade and commerce in the world in general and in our country in particular has been adversely impacted due to the outbreak of the pandemic. Taking into consideration the overall situation the Hon'ble Supreme Court (*on 23.03.2020 in Suo Moto Writ Petition (C) No. 3/2020*) and Hon'ble NCLAT (*on 30.03.2020 in Suo Moto Company Appeal (AT) (Insolvency) No. 01 of 2020*) extended the timelines by excluding the period of lockdown.
4. Therefore, considering the case in hand and considering such peculiar circumstances, the delay in filing the claims by the above stakeholders beyond the due date mentioned in the public announcement, is justifiable. Also, as substantial period

Sd/-

of liquidation process is still pending, the Applicant rightly received the belated claims keeping in view that no prejudice is caused, and interest of all stakeholders is protected. Thus, the updated list of claims of stakeholders needs to be taken on record. Hence ordered.

ORDER

The Application be and the same is allowed. The modified list of claims annexed as Annexure - D to the Application is allowed and taken on record. No costs.

Sd/-

Narendra Kumar Bhola
Member (Technical)

Sd/-

Bhaskara Pantula Mohan
Acting President