IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

KOLKATA

C.A. (IB) No. 163/KB/2020
With
C.A. (IB) No. 1576/KB/2019
In
C.P. (IB) No. 1223/KB/2018

In the matter of:

An application u/s. 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

AND

In the matter of:

An application on behalf of the Resolution Professional of M/s. Maa Tara Ispat Industries Private Limited u/s. 33(2) of the Insolvency and Bankruptcy Code, 2016 for initiation of Liquidation Process against the Corporate Debtor;

AND

In the Matter of:

M/s. Vaishno Engineer System Associates ...Operational Creditor

VERSUS

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Maa Tara Ispat Industries Private Limited ...Corporate Debtor

AND

In the Matter of:

Maa Tara Ispat Industires Private Limited, Through the Resolution Professional Mr. Anish Agarwal ...Applicant

CORAM:

Shri Jinan K.R., Member (Judicial)

Shri Harish Chander Suri, Member (Technical)

COUNSELS PRESENT:

1) **Anish Agarwal, FCA, RP**
2) **Atul Sureka, Advocate for RP**
3) **Nikita Anand, Advocate for CoC**
4) **Pramod Kumar Singh, Ex-IRP**

Date of pronouncement of Order: 21st February, 2020

ORDER

Per Jinan K.R., Hon'ble Member (J):

1. The Petition bearing C.P. (IB) No. 1223/KB/2018 was filed by the Operational Creditor under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter, the Code) for initiation of Corporate Insolvency Resolution Process (hereinafter, CIRP) against the Corporate Debtor. The

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Corporate Debtor was admitted into CIRP by this Tribunal vide its order dated 09.04.2019 and had appointed Mr. Pramod Kumar Singh as Interim Resolution Professional (hereinafter, the IRP).

2. The IRP made the public announcement in Form A under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulation, 2016 for inviting the claim from the Creditors under the forms prescribed under the Code. In response, 2 (two) Financial Creditors viz., Bank of Baroda and SIDBI lodged their claims in Form C as prescribed under the Code and the Committee of Creditors (hereinafter, the CoC) was formed consisting of the abovesaid creditors having 79.81% and 20.19% voting shares, respectively.

3. In the third CoC meeting held on 01.07.2019, Bank of Baroda proposed the name of Mr. Anish Agarwal as the RP and fixed his fees, this appointment was confirmed by this Tribunal vide Order dated 20.09.2019, in furtherance of the direction form NCLAT.

4. The period of 180 days for completion of CIRP expired on 05.10.2019. The Committee of Creditors in their meeting held on 01.10.2019 passed the Resolution to seek extension of the time under section 12(2) of the Code. The RP moved an application for extension of time by 90 days which was allowed by this tribunal vide its order dated 18.10.2019.

5. In the 5th (fifth) CoC meeting held on 10.10.2019 the agenda for publication of Expression of Interest and minimum eligibility criteria for the prospective resolution applicant was approved. Accordingly, FORM-G was published on 15.10.2019 inviting expression of interest from prospective resolution applicants. In response to FORM-G

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published, one expression of interest was received by the RP within the date prescribed in FORM-G; the RP sent request for resolution plan along with bid valuation matrix and information memorandum vide mail dated 30.11.2019 to the said applicant, however, the RP did not receive any resolution plan from the said applicant.

6. In the 8th (Eighth) CoC meeting held on 06.01.2020, the agenda to approve the re-publication of FORM-G and extension of time of Expression of Interest was placed, however, the CoC proposed for initiation of liquidation process against the Corporate Debtor.

7. The said RP has filed an application being C.A. (IB) No. 163/KB/2020 praying for initiation of Liquidation against the Corporate Debtor.

8. The RP submits that the CoC, in its 9th (Ninth) meeting held on 18.01.2020, by 100% voting share resolved that the Corporate Debtor be liquidated. The RP was authorised in the said meeting to file an application with the Tribunal to that effect. The said RP was also appointed as Liquidator for the liquidation process of the Corporate Debtor and has filed his consent by way of written communication to act as a Liquidator of the said Corporate Debtor.

9. Heard the Ld. RP and the Counsel appearing for the RP and have perused the records. It appears that the RP had made continuous efforts to bring resolution applicants for revival of the Corporate Debtor; however, no applicant came forward to take over the stressed assets of the Corporate Debtor.

10. In the given facts and circumstances, wherein, in spite of extension of time by 90 days on one occasion and exclusion of time period of 30 days, as is evident from the submission as well as from the record, no

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resolution plan was received by the RP and the CoC resolved against re-publication of FORM-G and extension of time for submission of Expression of Interest and voted in favour of initiation of liquidation process, we are convinced that there is no other alternative but to initiate liquidation proceedings against the Corporate Debtor.

11. In view of the aforesaid, we hereby pass an order of liquidation against the Corporate Debtor in the manner as laid down in Chapter III of part II of the Code.

ORDER

a) The Corporate Debtor namely, Maa Tara Ispat Industries Private Limited is ordered to be liquidated.

b) Mr. Anish Agarwal, having registration no. IBBI/IPA-001/IP-P01497/2018-19/12256, email id: ip.cispl@gmail.com, residing at Flat No. 503, Gulmohar Apartment, Modi Compound, Lalpur, behind Arya Hotel, Ranchi GPO, Ranchi, Jharkhand-834001 is appointed as the Liquidator.

c) Liquidator is directed to issue a public announcement stating that the Corporate Debtor is in liquidation, once in a leading English newspaper once in a vernacular newspaper having wide circulation in the place where the registered office of the Corporate Debtor is situated as per section 33 (1)(b)(ii) of the Code read with Reg. 12 (1) of IBBI (Liquidation Process) Regulations, 2016;

d) The registry is directed to communicate this order to the Registrar of Companies, West Bengal and to the Insolvency and Bankruptcy Board of India (IBBI), New Delhi;

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e) The order of moratorium passed under section 14 of the Code shall cease to have effect and a fresh moratorium under section 33 (5) shall commence;

f) This order is deemed to be a notice of discharge of the officers, employees and the workmen of the Corporate Debtor as per section 33 (7) of the Code.

g) The liquidator is directed to proceed with the process of liquidation in the manner laid down in Chapter III of the Code.

h) Upon proceeding with the liquidation the Liquidator shall file a preliminary report as per Regulation 5 read with Regulation 13 of the IBBI (Liquidation Process) Regulations, 2016 at the Registry within 75 days from the liquidation commencement date and continue to file progress reports as per regulation 15 (1) within 15 days after the end of the quarter in which he is appointed;

i) The fee payable by the Liquidator shall form part of the liquidation cost as provided under Regulation 4 (1) of the IBBI (Liquidation Process) Regulations, 2016;

12. The application bearing **C.A. (IB) No. 163/KB/2020** is hereby allowed and disposed of and consequently, the Company Petition bearing **C.P. No. 1223/KB/2018** is accordingly disposed of.

13. Another application bearing **C.A. (IB) No. 1576/KB/2019** that was also filed by the said RP under section 19 (2) read with Section 60(5)(c) of the Code read with Regulation 30 of the IBBI (Insolvency Resolution Process For Corporate Persons) Regulations, 2016 seeking direction against the Respondents therein to provide information and documents sought has

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now become infructuous in view of the aforementioned order and is therefore disposed of.

14. Copy of this order is to be sent to the Liquidator, RP, and the Corporate Debtor by speed post as well as by email for information and for taking necessary steps.

15. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Sd/-

(Harish Chander Suri)
Member (Technical)

Sd/- 21/2/20.

(Jinan K.R)
Member (Judicial)

Signed on this 21st day of February, 2020.

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