

I.A.(IB)..../KB/2020

In

CP(IB) No. 701/KB/2019

M/s. Damodar Valley Corpn vs. Bhaskar Shrachi Alloys

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
KOLKATA**

I.A.(IB) ...../KB/2020

In

CP (IB) No. 701/KB/2019

**In the matter of:**

**An application by the Resolution Professional under Section 33 of the Insolvency and Bankruptcy Code, 2016.**

**And**

**In the matter of:**

**M/s. Damodar Valley Corporation**

**.. Operational Creditor**

**And**

**In the matter of :**

**M/s. Bhaskar Shrachi Alloys Limited**

**... Corporate Debtor**

**And**

**Sri Samir Agarwal, Suite 68, 6<sup>th</sup> Floor, Chitrakoot Building, 230A, A.J.C. Bose Road, Kolkata 700020, West Bengal.**

**Resolution Professional**

**Coram: Shri Jinan K.R., Hon'ble Member (Judicial)**

**Parties Present**

Mr. Samir Agarwal

Resolution Professional

Mr. Deepak Kumar Khaitan

PCS

**Date of hearing: 29.04.2020**

**Order delivered on: 29.04.2020**

**ORDER**

**Per Jinan K.R. Member (Judicial)**

1. This unnumbered application filed by the resolution professional (RP) under Section 33 of the Code, come up for consideration on today. RP prays for passing an order of liquidation for the reason of non receipt of Resolution Plan.

2. The Company Petition C.P. (IB) No. 701/KB/2019 filed under Section 9 by the Operational Creditor / M/s. Damodar Valley Corporation for initiating Corporate Insolvency Resolution Process as against the Corporate Debtor / M/s. Bhaskar Shrachi Alloys Limited was admitted by the Adjudicating Authority vide order dated 27<sup>th</sup> September, 2019 by appointing Shri Samir Agarwal as the Interim Resolution Professional (IRP).

3. The IRP immediately taken over the management of the affairs of the Corporate Debtor and continues Resolution Process. In the meanwhile vide order dated 27<sup>th</sup> September, 2019 the appointment of IRP was confirmed by the Committee of Creditors (CoC) and thereafter he continues the process. In the meanwhile 180 days of CIRP was completed on 24<sup>th</sup> March, 2020. Although as per the publication inviting Expression of interest (EOI) one EOI was received from a prospective Resolution Applicant that applicant subsequently had withdrawn its interest. No other applicant come forward showing any interest thereby there was no Resolution Plan available with the Resolution Professional. Though the RP requested permission from CoC for repeating the publication the CoC, by 100% voting share rejected his request and authorised him to move an application for passing order of Liquidation. Accordingly he filed this application on 21.03.2020.

4. On 22.03.2020 the Government of West Bengal notified order on Complete Safety Restrictions in the State with effect from 23.03.2020 to 27.03.2020 and thereafter it was extended up to 31.03.2020 and therefore this application could not be moved by the RP for passing an order of Liquidation and accordingly mentioned this application by way of e-mail for having an urgent hearing through VC.

5. According to the Ld. PCS in view of the continuation of lock down due to COVID-19, keeping the process without passing an

order of liquidation, causes hardship and inconvenience to the RP. Though the urgency set up on the side of the Resolution Professional not falls in a matter of extreme emergency, I have listed this case for hearing on today for avoiding pressure of work after resuming regular work.

6. The Ld. Resolution Professional Mr. Samir Agarwal, Ld. PCS Mr. Deepak Kumar Khaitan were heard through VC.

7. The application was filed under Section 33 of the Code. Being satisfied that there was no Resolution Plan for the consideration of the Committee of Creditors and the Committee of Creditors has taken a unanimous decision of not to get an order for extension beyond the period of 180 days, the RP has no other alternative than to submit this application for passing an order of Liquidation.

8. According to the Ld. PCS appearing for the RP, the RP has taken all his earnest efforts for completing the CIRP within the period of 180 days and called for Expression of Interest and even if one EOI was received that application showing interest was later withdrawn. So as on today no EOI or resolution plan is available with the RP. In the said circumstances and the circumstances that the CoC unanimously decided not to make a request for extension of CIRP period and approved the Resolution for getting an order of Liquidation, there is no other alternative than to pass an order of Liquidation under Section 33 of the Code. It is further would

submits that CoC approved the appointment of RP as the liquidator and the RP has annexed the copy of written consent along with the application. Accordingly, this application is allowed passing an order of Liquidation upon the following :-orders:-

(a) Shri.SAMIR AGARWAL is appointed as Liquidator;

(b) Shri. SAMIR AGARWAL is directed to issue Public Announcement stating that the Corporate Debtor is in liquidation, in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;

(c) The Registry is directed to communicate this Order to the Registrar of Companies, West Bengal and to the Insolvency and Bankruptcy Board of India;

(d) The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;

(e) This order is deemed to be a notice of discharge to the officers, employees and the workmen of the Corporate Debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;

(f) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016;

(g) The Liquidator shall submit a Preliminary Report within seventy-five days from the date of 'commencement date' to the Adjudicating Authority as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.

18. Registry is directed to serve copies of this order to the operational creditor, corporate debtor and the Liquidator for taking necessary steps by e-mail.

**(Jinan K.R)**

**Member (Judicial)**

*Signed on this 29<sup>th</sup> day of April, 2020.*