

IN THE NATIONAL COMPANY LAW TRIBUNAL,
KOLKATA BENCH, KOLKATA

CP(IB)No.513/KB/2018

&

CA(IB) No.1713/KB/2019

CA(IB) No.1721KB/2019

CA(IB) No.1723/KB/2019

CA(IB) No.1725/KB/2019

CA(IB) No.1731/KB/2019

CA(IB) No.1833/KB/2019

In the matter of:

CP(IB)No.513/KB/2018 is an application for initiation of Corporate Insolvency Resolution Process under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

And

In the Matter of:

Uco Bank, a Banking Company constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 having its head office at 10, Biplabi Trailakya Maharaj Sarani, Kolkata-700001, West Bengal.

... Applicant/Financial Creditor

And

In the Matter of:

BRG Iron and Steel Co. Private Limited, a Company incorporated under the provisions of the Companies Act, 1956 and having its registered office at Godrej Waterside, Suite No. 402-404, Plot No.5, Block- DP, Sector V, Salt Lake, Kolkata-700091, West Bengal.

... Respondent/Corporate Debtor

And

In the matter of

M/s Rameshwaram Lime Product's, a partnership firm having its office at Opposite Ram Mandir, Civil Line, P.O. Metra City, District- Nagpur(Rajasthan) Pin- 341510 represented by the partners (1) Sri Kedar Sharma, Son of Ram Kumar Sharma, (2) Smt. Renu Sharma, wife of Kedar Sharma, both residing at

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opposite Ram Mandir, Civil Line, P.O. Metra City, District- Nagpur (Rajasthan), Pin- 341510, both represented by their constituted attorney Mr. Ashok Karnani, Son of Jainarayan Karnani, residing at Club Town, Block-6, Flat No. 4C VIP Road, Teghoria, Rajarhat Gopalpur Municipality, North 24 Pargnas, West Bengal.

... Applicant/Operational Creditor

And

In the matter of

Mr. C.A.Kannan Tiruvengadam, Resolution Professional (BRG Iron and Steel Co. Private Limited), Netaji Subhas Villa, 18, Karunamoyee Ghat Road, (Tollygunge Area), Flat No. 3C, Kolkata- 700082, West Bengal.

... Respondent

Date of Hearing: 30th January, 2020

Order Delivered on: 03rd February, 2020

Coram:

Jinan K.R., Hon'ble Member (Judicial)
Harish Chander Suri, Hon'ble Member (Technical)

For CA(IB) No.1721,1723 1725 & 1731/KB/2019	: 1. Mrs. Urmila Chakraborty, Advocate 2. Ms. Kajal Ray, Advocate
For Custom Authorities	: 1. Mr. Amitabrata Roy, Advocate 2. Ms. Aishwarya Rajashree, Advocate
For Resolution Professional	: 1. Mr. Pratik Mukhopadhyay, Advocate 2. Mr. Saptarshi Mandal, Advocate 3. Avik Choudhary, Advocate

ORDER

Jinan K.R., Hon'ble Member (Judicial)

1. Uco Bank/Financial Creditor filed **CP(IB)No.513/KB/2018** under Sec.7 of the Insolvency and Bankruptcy Code, 2016 (in short IB Code) read with Rule 4 of the Insolvency and Bankruptcy Code (Application to Adjudicating Authority) Rules, 2016 for initiation of corporate insolvency resolution process as against the Corporate Debtor/BRG Iron and Steel Co. Private Limited. That application

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was admitted vide order dated 5th March, 2019, by appointing Mr. Kannan Tiruvengadam as the IRP. Later, as per the approval of the Committee of Creditors the Interim Resolution Professional Mr. Kannan Tiruvengadam was appointed as the Resolution Professional and he continued with the process. However, failed in getting approval of any resolution plan by the Committee of Creditors and filed the Final Progress Report on 30/01/2020 recommending for passing an order for liquidation.

2. The Resolution Professional published notice on 19th March, 2019 in various Newspapers like Ananda Bazar Patrika, Business Standard and Sambad. In pursuance of the publication expression of the interest was received from prospective Resolution applicants namely Jindal Stainless (Hissar) Limited, Ganpati Entrepreneurs Private Limited, NRS Steel Traders LLP, Rimjhim Ispat Limited and Sunflag Iron & Steel Co. Limited. Out of the above said prospective Resolution applicant Jindal Stainless (Hissar) Limited and Rimjhim Ispat Limited reached upto the final round. According to the Resolution Professional, the Committee of Creditors effectively negotiate with the prospective Resolution applicants, so as to maximize resolution amount. However, the Jindal Stainless (Hissar) Limited plan being found not in compliance with Section 30(2) of the Code and the RFRP issued by the Committee of Creditors.

3. The Committee of Creditors proceeded with the modified plan submitted by the Rimjhim Ispat Limited. The revised plan of Rimjhim Ispat Limited was considered by the Committee of Creditors in 13th CoC meeting held on 9th January, 2020. The members of the Committee of Creditors deliberated upon the revised resolution plan submitted by Rimjhim Ispat Limited. After final round of deliberation, the resolution plan of Rimjhim Ispat Limited was put to vote. However, the Resolution Professional was received proposal for

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improvement of the resolution plan and on receipt of the revised plan Resolution Professional thought of calling meeting of the Committee of Creditors by issuing 48 Hours notice as per Regulation 19(2) of the CIRP Regulations, 2016. At the request of the Resolution Professional, members of the Committee of Creditors ratified the act of Resolution Professional in calling the urgent meeting by giving shorter notice of 48 Hours.

4. The representative of the Resolution applicant was heard in 14th CoC meeting held on 15th January, 2020 and the modification suggested of the Resolution applicant also discussed at length and after hearing from the representative of Resolution applicant as well as from the process advisor, members of the Committee of Creditors finally decided to vote on the revised plan submitted by the prospective Resolution applicant namely Rimjhim Ispat Limited. The voting was held on 12-14th January, 2020. The Committee of Creditors dissented the approval of resolution plan by 98.92% of vote share. One member having 1.71% voting share has been abstained from voting and therefore the resolution plan of Rimjhim Ispat Limited was not approved by 100% of vote share of the members voted against the approval of the resolution plan.

5. In view of the above said circumstances, the Resolution Professional prepared this Final Progress Report praying for passing an order under section 33(1)(a) read with Section 33 (1)(i) of IB Code, 2016 requiring the corporate debtor to be liquidated in the manner as laid down in the Chapter 3 of the Code.

6. Upon hearing the Final Progress Report submitted by the Resolution Professional, some of the Operational Creditors pressed their applications for hearing. The learned counsel appearing for the Operational Creditors, who moved applications being CA No. (IB) No.1721/KB/2019, CA No. (IB)

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No.1723/KB/2019, CA No. (IB) No. 1725/KB/2019,CA No. (IB) No.1731/ KB/ 2019, & CA No. (IB) No. 1833/ KB/ 2019 submits that only due to delay in submission of their respective claim their claims have been rejected. Since, there was no resolution of the stressed assets of the Corporate Debtor under consideration for the approval of the Adjudicating Authority under Section 31 of the Code and since the Resolution Professional prays for passing an order of liquidation these applications require no consideration. It is also significant to note that 330 days of CIRP period, been expired on 29/01/2020. Therefore, all these applications can be disposed of with a liberty to submits their respective claim to the liquidator appointed in the case in hand. With the above said observations, all these applications are to be disposed of.

7. In view of the legal position and the circumstances that no resolution plan is forthcoming to resolve the stressed assets of the Corporate Debtor there is no other alternative than to pass an order of liquidation requiring the Corporate Debtor to be liquidated in the manner as laid down in Chapter 3 read with Section 33(1)(a) of the Code. Mr.Kannan Tiruvengadam has given written consent to continue as the Liquidator and hence he is to be appointed as the Liquidator.

8. In the result, an order requiring the Corporate Debtor to be liquidated is passed upon the following directions:-

ORDERS

- i. In view of the facts that the Corporate Debtor has been ordered to be liquidated. Mr.Kannan Tiruvengadam an Insolvency Professional who is holding IBBI registration No. IBBI/IPA-001/IP-P00 253/2017-2018/10482is appointed as the Liquidator and act in accordance with

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Rule 12 of Liquidation Process Regulation, 2016 and submit the preliminary Report as per Regulation 13 of the said Code.

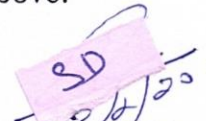
- ii. The Registry is directed to communicate this order to the Registrar of Companies, West Bengal and to the Insolvency and Bankruptcy Board of India.
- iii. The order of Moratorium passed under section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence.
- iv. This order shall be 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 Insolvency and Bankruptcy Code, 2016.
- v. A copy of this order be sent to the Financial Creditor, Corporate Debtor and the Liquidator for taking necessary steps.

9. CA No. (IB) No.1721/KB/2019, CA No. (IB) No.1723/KB/2019, CA No. (IB) No. 1725/KB/2019, CA No. (IB) No.1731/KB/2019, & CA No. (IB) No. 1833/KB/ 2019 are disposed of with a liberty to submit their claims before the liquidator as per the provisions of the Code and Regulation.

10. CP (IB) No.513/KB/2018 is disposed of as above.



Harish Chander Suri
Hon'ble Member (T)



(Jinan K.R.)
Hon'ble Member (J)

Signed on 3rd February, 2020
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