

NATIONAL COMPANY LAW TRIBUNAL
COURT ROOM NO. 1,
MUMBAI BENCH

Item No. 25

IA 5137/2024 in C.P. (IB)/3641(MB)2018

CORAM:

SH. PRABHAT KUMAR JUSTICE VIRENDRASINGH BISHT (Retd.)
HON'BLE MEMBER (TECHNICAL) HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON **25.11.2024**

NAME OF THE PARTIES: **AMOD STAMPINGS PVT. LTD V/s TRANS**
FAB POWER INDIA PVT. LTD.

Section 9 & 60(5) of the Insolvency and Bankruptcy Code, 2016

ORDER

IA 5137/2024 in C.P. (IB)/3641(MB)2018

- 1) Ld. Counsel, Manoj Mishra appeared for the Applicant/Liquidator through VC.
- 2) This Application has been filed by the Liquidator/Applicant seeking following reliefs;
 - a. An order under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Regulation 45(3)(a) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 for closure of the Liquidation process of Mis. Trans-Fab Power India Private Limited, the Corporate Debtor herein, which is sold as a going concern and proceeds are distributed;
 - b. An order discharging the Liquidator Mr. Anil Seetaram Vaidya from the liquidation proceedings of Mis. Trans-Fab Power India Private Limited;

- c. An order taking on record the Final Report as filed by the Liquidator with respect to Mis. Trans-Fab Power India Private Limited, which is annexed with the present Application;
 - d. An order taking on record the Form H filed by the Liquidator with respect to Mis. Trans-Fab Power India Private Limited, which is annexed with the present Application;
- 3) Ld. Counsel for the Applicant/Liquidator submits that Mis. Trans-Fab Power India Private Limited is the Corporate Debtor which was admitted into Corporate Insolvency Resolution Process vide Order dated 30.08.2019. However, in view of failure in implementation of the Resolution Plan, the Corporate Debtor was placed into Liquidation process vide Order passed by this Tribunal on 28.06.2023. Vide Liquidation Order dated 28.06.2023, the Applicant was appointed as the Liquidator of the Corporate Debtor.
- 4) During the liquidation process, the Applicant/Liquidator had caused to issue the 1st Auction Notice on 01.09.2023, pursuant to which the 1st Auction was held on 27.10.2023 where one 'SM Electric Works' emerged as the Winning Bidder, which had quoted the highest bid of Rs. 6,05,91,998/-. However, SM Electric Works requested for further time of 90 days for making the entire payment, which was not granted by the Liquidator and the SCC and thereafter, the Applicant had caused to issue the 2nd Auction Notice on 05.02.2024. In the interregnum SM Electric Works moved LA. (IBC) No. 722/ 2024 before this Tribunal seeking extension of time for the payment of the full bid amount up to 60 days, which was allowed by this Hon'ble Tribunal vide order dated 27.02.2024 and resultantly, the 2nd Auction scheduled on 02.03.2024 was stayed.
- 5) Ld. Counsel for the Applicant further submits that pursuant to the said Order passed by this Tribunal on 27.02.2024, SM Electric Works made

the entire payment of Rs. 6,32,63,931/- (Rupees Six Crores Thirty - Two Lakhs Sixty - Three Thousand Nine Hundred and Thirty - One Only) comprising of (1) principal component of Rs. 6,05,91,998/- (Rupees Six Crores Five Lakhs Ninety - One Thousand Nine Hundred and Ninety - Eight Only) and (2) interest component of Rs. 26,71,933/- (Rupees Twenty - Six Lakhs Seventy - One Thousand Nine Hundred and Thirty - Three Only). This receipt of entire proceeds was duly brought to the knowledge of the SCC in its 8th Meeting held on 23.04.2024.

- 6) The Liquidator had also executed an Agreement with SM Electric Works on 04.03.2024 to give effect to the sale of TPIPL as a going concern. It is further submitted that the Liquidator had filed I.A. (IBC) No. 1693/2024 for approval of sale as a going concern which was allowed by this Tribunal vide Order dated 15.07.2024.
- 7) After receipt of the entire proceeds and deduction of amount towards PF dues and payment of unpaid CIRP and Liquidation Cost, the Applicant/Liquidator had duly caused the distribution of the proceeds to the stakeholders in accordance with the waterfall mechanism mandated u/s 53 of the Insolvency and Bankruptcy Code, 2016. After completion of distribution, the Liquidation A/c No. 051720110000763 maintained with Bank of India has Nil closing balance and thus, stands closed on 30.07.2024.
- 8) The Liquidator then issued Sale Certificate for sale of TPIPL as a going concern to S M ELECTRIC WORKS on 31st July, 2024 and handed over the management of affairs of the Corporate Debtor as a going concern and custody and control of all the assets of the Corporate Debtor including the business records to the proprietor of S M ELECTRIC WORKS Shri Sunil Saraf on 3rd July, 2024. The statement of receipts and payments during the

- liquidation period as on 31st July 2024, the liquidation completion date, was prepared after distribution of the sale proceeds of liquidation and the same has been audited by PSK & Associates Chartered Accountant Pune.
- 9) In view of completion of the liquidation process, the Applicant has preferred the instant Interlocutory Application u/s 60(5) of the Code r/w Regulation 45(3)(a) of the Liquidation Regulations for closure of the liquidation process of the Corporate Debtor, where the Corporate Debtor is sold as a going concern.
- 10) Ld. Counsel for the Applicant/Liquidator informs that an appeal of the Suspended Board against the order allowing the sale of the Corporate Debtor as a going concern has been challenged and pending before the Hon'ble NCLAT.
- 11) Having heard the submissions made by the Ld. Counsel for the Applicant/Liquidator and have perused the record we find that the Corporate Debtor Company i.e. M/s Trans-Fab Power India Private Limited has been sold as a going concern in the Liquidation process and the distribution has also been done. Further there is no stay granted by the Hon'ble NCLAT in the said appeal, therefore, we are of the view that the Liquidation process may be ordered to be closed subject to outcome of the said appeal.
- 12) The Liquidator is hereby discharged from his duties and final report of the Liquidator from the liquidation proceedings of Mis. Trans-Fab Power India Private Limited along with the Form H is taken on record.
- 13) Accordingly, **IA 5137/2024** is **allowed** and **disposed of** in the aforesaid terms.

Sd/-
PRABHAT KUMAR
MEMBER (TECHNICAL)

Sd/-
JUSTICE VIRENDRASINGH BISHT
MEMBER (JUDICIAL)