

**IN THE NATIONAL COMPANY LAW TRIBUNAL AT
ALLAHABAD BENCH**

CP NO.(IB)70/ALD/2017 WITH CA NO.74/2018,

And

CP NO.(IB)71/ALD/2017 WITH CA NO.75/2018

(UNDER SECTION 33(1)(a) 7 OF THE
INSOLVENCY & BANKRUPTCY
CODE, 2016)

IN THE MATTER OF

BANK OF BARODA,

A body corporate constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and having its Head Office at Suraj Plaza-1, Sayaji Ganj, Mandavi, Baroda – 390 020 and Corporate Office at Baroda Corporate Centre, Bandra Kurla Complex, Bandra (East), Mumbai – 400 051 and acting through its International Business Branch, with its office at 17/14, The Mall, Kanpur, Uttar Pradesh – 208 001, India.

..... **APPLICANT/FINANCIAL CREDITOR**

VERSUS

ROTOMAC GLOBAL PVT. LTD.,

A company incorporated under the laws of India with its registered office at 201 City Centre, Premises No.63/2, The Mall, Kanpur, Uttar Pradesh – 208 004, India.

..... **CORPORATE DEBTOR**

AND

BANK OF BARODA,

A body corporate constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and having its Head Office at Suraj Plaza-1, Sayaji Ganj, Mandavi, Baroda – 390 020 and Corporate Office at Baroda Corporate Centre, Bandra Kurla Complex, Bandra (East), Mumbai – 400 051 and acting through its International Business Branch, with its office at 17/14, The Mall, Kanpur, Uttar Pradesh – 208 001, India.

..... **APPLICANT/FINANCIAL CREDITOR**

VERSUS

ROTOMAC EXPORTS PVT. LTD.,

A company incorporated under the laws of India with its registered office at 201 City Centre, Premises No.63/2, The Mall, Kanpur, Uttar Pradesh – 208 004, India.

..... **CORPORATE DEBTOR**



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JUDGMENT/ORDER DELIVERED ON 23.03.2018

**CORAM : SH. V.P SINGH, MEMBER (J)
MS. SAROJ RAJWARE, MEMBER (T)**

For the Resolution Professional: Sh. Shubham Agarwal, Advocate.

PER SE: SH. V.P. SINGH, MEMBER (J)

JUDGMENT/COMMON ORDER

1. The present CA Nos.74/2018 & 75/2018 have been filed by the Resolution Professional under Section 33(1)(a) of the Insolvency & Bankruptcy Code, 2016 for initiation of liquidation process of Corporate Debtor Companies, i.e. Rotomac Global Private Limited and Rotomac Exports Private Limited respectively.
2. The applications CP Nos.70/ALD/2017 and 71/ALD/2017 was filed U/s 7 of the Insolvency & Bankruptcy Code, 2016 against the Corporate Debtor companies namely M/s Rotomac Global Private Limited (being principal borrower) and M/s Rotomac Exports Private Limited respectively.
3. The said petitions were admitted by order of this Tribunal dated 20.09.2017. After that, Sh. Anil Goel, Resolution Professional has filed the applications U/s 33(1)(a) of the I & B Code, 2016 seeking relief that the Corporate Debtor Companies be liquidated in the manner as laid down in Chapter III of the I & B Code, 2016, on failure of resolution plan within extended statutory period for limitation, i.e. 270 days. The Resolution Professional have stated in the applications that in the fourth meeting of the Committee of Creditors (COC) held



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on 20.02.2018, it was discussed that there was a raid by the CBI on the Corporate Debtor upon the complaint filed by the Bank of Baroda after declaring the account as fraud. The Director of the Company could not attend the meeting as CBI raid was in progress and family members were not permitted to leave the premises. The action was initiated by the Enforcement Directorate against the Corporate Debtor and the promoters by invoking Prevention of Money Laundering Act. Resolution Professional also informed to the COC that period for Corporate Insolvency Resolution Process (CIRP) is due for completion on 19.03.2018, therefore, he recommended for extension of CIRP period by another 90 days, on the ground that the time left for completion for CIRP is very short for resolution of assets of Corporate Debtor. The matter was deliberated by COC considering ongoing investigation by CBI. The resolution for extension of CIRP was decided to be approved through E-voting, and the same was failed, as 96.08% COC voted as 'No' to the said resolution in a matter of *Rotomac Global Private Limited* and 97.01% of COC in *Rotomac Exports Private limited* voted against the Extension of CIRP. Copy of the minutes of the fourth meeting of COC is attached with the application as **Annexure – 7 and Annexure - 6 (in CA. No .74/2018 and CA. No.75/2018 respectively).**



4. It appears from the minutes of COC that resolution was regarding the extension of the period of CIRP period to be put to E-voting as per Section 12(3) of the Insolvency & Bankruptcy Code, 2016 for 90 days

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w.e.f 19.03.2018. The resolution was defeated by the COC with a vote

share of 96.08% and 97.01% respectively. Copy of attendance sheet of COC meeting is also annexed with the application, which shows that the COC with a vote share of 3.2% and 2.99% respectively supported the move for seeking extension of another 90 days for completion of resolution process, but 96.08% and 97.01% of COC respectively, voted against the move for seeking extension of 90 days for completion of CIRP.

5. Further, Section 33(1)(a) provides that before the expiry of CIRP or the maximum period for completion of CIRP U/s 12, if no resolution plan is received under sub-Section 6 of Section 30, or the Adjudicating Authority reject the resolution plan U/s 31 for noncompliance of the requirements therein, then the Adjudicating Authority has to pass an order for liquidation of the the Corporate Debtor.
6. In this case, the petition U/s 7 of I & B Code, 2016 was admitted against the Corporate Debtor by order dated 20.09.2017 and period of 180 days expired on 19.03.2018. The COC by the vote share of 96.08% and 97.01% has rejected the move for seeking an extension of another 90 days for completion of CIRP. In these circumstances, Corporate Debtor is to be liquidated in the manner prescribed under Chapter III of the I & B Code, 2016. Therefore, we pass the order of liquidation of the Corporate Debtor Companies namely **Rotomac Global Private Limited and Rotomac Exports Private Limited** by the provisions of Chapter III of the I & B Code, 2016.



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