IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

KOLKATA

I.A. (IB) No. 410/KB/2022

in

C.P (IB) No. 510/KB/2018

Under section 54 of the Insolvency and Bankruptcy Code, 2016 read with regulation 45(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

In the matter of

Kanodia Metals Private Limited [CIN U70109WB1979PTC032111]

... Operational Creditor

Versus

D N Sircar S K Das Private Limited [CIN U26102WB1961PTC025019]

... Corporate Debtor

And

In the matter of

Mohan Ram Goenka, Liquidator of D N Sircar S K Das Private Limited

... Applicant

Order reserved on: 18.05.2022
Order pronounced on: 08.06.2022

Coram:

Shri Rohit Kapoor, Member (Judicial)

Shri Harish Chander Suri, Member (Technical)

Appearances (through video conferencing):

For the Applicant : Mr. Mohan Ram Goenka, PCS

ORDER

Per Harish Chander Suri, Member (Technical)

1. This court convened *via* hybrid mode.

2. This is an application filed under section 54(2) of the Insolvency and Bankruptcy Code, 2016 (***'the Code'***) read with regulation 45(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 ***('Liquidation Process Regulations')*** by the Liquidator of D N Sircar S K Das Private Limited ***('Corporate Debtor')*** praying for dissolution of the Corporate Debtor.

3. The Adjudicating Authority v*ide* order dated 02 November, 2018 admitted the Corporate Debtor under Corporate Insolvency Resolution Process ***('CIRP')*** appointing Mr. Mohan Ram Goenka as Interim Resolution Professional ***('IRP')***. Committee of Creditors ***('CoC')*** was formed with only one Financial Creditors i.e., Allahabad Bank having 100% voting share. The CoC instructed the IRP to file an application for liquidation in the first meeting itself. With no cooperation from the CoC, the IRP requested this Adjudicating Authority to pass an order for liquidation.

4. In the meantime, the CIRP Period of 180 days got completed on 30 April, 2019 and this Adjudicating Authority *vide* Order dated 05 July, 2019, passed an order for liquidation of the Corporate Debtor. Mr. Mohan Ram Goenka ***('Applicant')*** was appointed as the liquidator.

5. In compliance with Regulation 12 of the Insolvency and Bankruptcy Board of India (liquidation Process) Regulations, 2016 (***'Liquidation Process Regulation')*** the Applicant made a Public announcement for commencement of liquidation Form 'B' in ***Financial Express*** (English) and ***Ek din*** (Bengali) on 08 July, 2019 inviting proof of claims from the stakeholders of the Corporate Debtor in the specified forms.

6. In response to the said publication two claims were received, one from the Office of the Joint Commissioner, Commercial Taxes, Kadamtala Charge, Howrah and second from the Employee State Insurance Corporation.

7. Despite several communications, the Applicant neither received any communication from the suspended board of the Corporate Debtor nor any cooperation from the sole Financial Creditor i.e., Allahabad Bank. The Allahabad Bank also did not made any communication after the 3rd CoC meeting held on 22 April, 2019.

8. In compliance of regulation 15 of the Liquidation Process Regulations, the Liquidator has filed eight progress reports for each quarter since the order of commencement of Liquidation Process. The final report disclosing all the material facts and information with respect to the liquidation process of the Corporate Debtor is at page 148-149 of the I.A.

9. As per mandatory requirement under regulation 45(3) of the Liquidation Process Regulations, the Liquidator has prepared a compliance certificate under prescribed '***Form H***' and the same is annexed as **Annexure – 'M'** to the application**.**

10. Upon hearing the Ld. Counsel appearing on behalf of the Liquidator and on perusal of the documents annexed to the application, it appears that there is no assets is available for the purpose of liquidation and it is fit and proper to liquidate the Corporate Debtor

11. In view of the above facts and circumstances, there is no impediment to the Corporate Debtor being dissolved, and it is ordered accordingly.

12. The sole Financial Creditor i.e., the Allahabad Bank is directed to pay the expenses incurred by the Applicant during the process of CIRP and liquidation along with his own professional fees within three working days from the date of this order, failing which necessary action shall be taken against the sole Financial Creditor.

13. The Liquidator is further directed to serve a copy of this order upon the Registrar of Companies, West Bengal, immediately and, in any case, within fourteen days of receipt of this order. The Registrar of Companies shall take further necessary action upon receipt of a copy of this order.

14. The Liquidator shall stand discharged from his responsibilities, subject to procedural compliances.

15. ***I.A. (IB) No. 410/KB/2022*** and ***CP (IB) No. 510/KB/2018*** shall stand disposed of in accordance with the above directions.

16. The Registry is directed to send e-mail copies of the order forthwith to all the parties for information and for taking necessary steps.

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

18. File be consigned to the record

HARISH CHANDER SURI Digitally signed by HARISH CHANDER SURI Date: 2022.06.08 17:23:00 +05'30'

ROHIT KAPOOR Digitally signed by ROHIT KAPOOR Date: 2022.06.08 17:04:00 +05'30'

Harish Chander Suri
Member (Technical)

Rohit Kapoor
Member (Judicial)

The Order is pronounced on 08th day of June , 2022

SA,LRA