

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

IA (IB) No. 1074/KB/2021

in

CP (IB) No. 188/KB/2019

Under section 33(1)(a) of Insolvency & Bankruptcy Code, 2016

In the matter of

Monotrone Leasing Private Limited

... Financial Creditor

Versus

B.D. Motors Limited

... Corporate Debtor

-And-

In the matter of:

Mr. Bimal Kanti Choudhury,

Resolution Professional of B.D. Motors Limited

... Applicant

Order reserved on 22.12.2021

Order pronounced on: 06.01.2022

Coram:

Shri Rohit Kapoor : Member (Judicial)

Shri Harish Chander Suri : Member (Technical)

Appearances (through video conferencing):

For the Resolution Professional:

Mr. Rishav Banerjee, Advocate

Mr. Aishwarya Kumar Awasthi, Advocate

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In Re Liquidation of B.D. Motors Ltd.
IA (IB) No. 1074/KB/2021 in CP (IB) No. 188/KB/2019

Mr. Rajarshi Banerjee, Advocate

ORDER

Per: Harish Chander Suri, Member (Technical)

1. This court was convened via video conferencing.
2. This is an application filed by the Resolution Professional with the approval of the Committee of Creditors (CoC) seeking liquidation of the Corporate Debtor, viz., B.D. Motors Limited [CIN: U34103WB2009PLC133634], on the ground that the CIRP period has expired and no resolution plan was received by the Committee of Creditors ('CoC'). The Applicant has sought for the following reliefs:
 - a. *To pass an order requiring the Corporate Debtor to be liquidated in accordance with law*
 - b. *To pass an order confirming the appointment of your Petitioner by the committee of creditors of the corporate debtor as the liquidator of the corporate debtor.*
 - c. *Ad-interim orders in terms of prayers above;*
 - d. *Such further order or orders, direction or directions be passed as to this Hon'ble Tribunal may deem fit and proper.*
3. This Adjudicating Authority *vide* its order dated 12.03.2020 on a Petition filed by the Monotrone Leasing Private Limited ('financial creditor') under section 7 of the Insolvency and Bankruptcy Code, 2016 ('the Code') directed initiation of the Corporate Insolvency Resolution Process ('CIRP') against the Corporate Debtor and appointed **Mr. Bimal Kanti Choudhury** as the Interim Resolution Professional ('IRP').

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4. The Applicant submits that in terms of section 15 of the Code, public announcement was made on 19.03.2020, in **Financial Express** (English) and **Ekdin** (Bengali) newspapers, fixing 30.03.2020 as the last date for submitting the claim. The public announcement was uploaded on the website of IBBI. However, due to Covid- 19 induced nationwide lockdown from 25.03.2020 to 31.05.2020 the last date of submission of claims was taken to be 06.06.2020 *i.e* by exclusion of the intervening lockdown period.
5. The Committee of Creditors (CoC) was duly constituted and the Report certifying the constitution of the CoC was filed with the Adjudicating Authority on 11.06.2020. Subsequently, after the re-constitution of the CoC with 4 financial creditors, a revised Report on the constitution of the CoC was filed with the Adjudicating Authority on 21.06.2020
6. The first meeting of the CoC was held on 18.08.2020. The Applicant states that the publication for invitation of EoIs in Form G was done on 04.02.2021 in **Business Standard** (English) and **Anandabazar Patrika** (Bengali) (Kolkata edition), newspapers. The last date of submission of EOI was 19.02.2021. It is submitted that the RP received no EOI's.
7. It is submitted that the Committee of Creditors, in the 9th COC meeting held on 20th November, 2021, approved the decision to liquidate the Corporate Debtor and appointment of **Mr. Bimal Kanti Choudhury** as the liquidator with 100% vote.
8. Hence, the RP has filed an application under section 33(1) of the Code, before the Adjudicating Authority for liquidation of the Corporate Debtor on expiry of the CIRP period.
9. The Applicant/Resolution Professional, **Mr. Bimal Kanti Choudhury** [Reg. No. IBBI/IPA-001/IP-P01028/2017-2018/11682], has agreed to

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act as liquidator to carry on the process of liquidation and given his consent to act as Liquidator, in terms of section 34(1) of the Code and has a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member.

10. We have considered the submission made by the learned Counsel on behalf of the Applicant/RP and perused the record.
11. Section 33(1) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Debtor where before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process the Adjudicating Authority does not receive a resolution plan under sub-section (6) of section 30.
12. This Bench, therefore, hereby orders as follows: -
 - a. Prayers as sought for in I.A. (IB) No. 1074/KB/2021 filed by **Mr. Bimal Kanti Choudhury**, RP of B.D. Motors Limited, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(1) of the Code;
 - b. **Mr. Bimal Kanti Choudhury** [Reg. No. [Reg. No. IBBI/IPA-001/IP-P01028/2017-2018/11682], is hereby appointed as Liquidator is hereby appointed as Liquidator as provided under section 34(1) of the Code ,
 - c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
 - d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, i.e., **Business Standard**

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(English) and **Anandabazar Patrika** (Bengali) (Kolkata edition), stating that the Corporate Debtor is in liquidation.

- e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
- f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- g. On initiation of the liquidation process but subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.
- h. In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.
- i. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, Kolkata, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.

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13. The application bearing **IA (IB) No. 1074/KB/2021** shall stand disposed of in accordance with the above directions.
14. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
15. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
16. List the main **CP (IB) No. 188/KB/2019** for reporting progress on **07/03/2022**.

(Harish Chander Suri)
Member (Technical)

(Rohit Kapoor)
Member (Judicial)

Signed on this, the 06th day of January, 2022

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