

C.P.(I.B.) No. 11/KB/2019
CA(IB) No. 1540/KB/2019
Corporation Bank vs. Bansal Refineries

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

C.P. (IB) No. 11/KB/2019
CA(IB) No. 1540/KB/2019

In the matter of:

An application 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:

Application for initiation of CIRP under Section 7 of the IPC 2016 read with Rule 4 of the Insolvency and Bankruptcy application to Adjudicating Authority Rules, 2016

And

In the matter of:

CORPORATION BANK, having its registered office at 8, Lenin Sarani Dharmatolla, Kolkata 700013.

... Financial Creditor

Versus

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3d

In the matter of:

M/S. BANSAL REFINERIES PRIVATE LIMITED, having its registered office at 113, Park Street North Block, 7th Fkloor, Kolkata 700007, West Bengal.

... Corporate Debtor

And

In the matter of:

Suspended Board of Directors of Bansal Refineries Private Limited, having its registered office at 113, Park Street, North Block, Seventh Floor, Kolkata 700007, West Bengal and also at 1, Rup Chand Roy Street, Kolkata 700001.

And

In the matter of:

PINAKI SIRCAR, Resolution Professional of Bansal Refineries Private Limited, registration number IBBI/IPA-002/IP-N00063/2017-18/10141, C/o. LSI Resolution (P) Ltd, 104, S.P. Mukherjee Road, Sagar Trade Cube, Second Floor, Kolkata 700026.

Applicant

**Coram: Shri Jinan K.R., Hon'ble Member (Judicial) &
Shri Harish Chander Suri, Hon'ble Member (Technical)**

Counsel on Record:

1. MR. UTSAV MUKHERJEE, Advocate] For Resolution Professional

1. MR. VIKRAM WADEHRA, Advocate]
2. MS. VIDUSHI CHOKHANI, Advocate] For the CoC.
3. MR. SOUMAVA GHOSH, Advocate]

Order pronounced on: 17/01/2020

ORDER

Per Shri Harish Chander Suri, Hon'ble Member (T):

1. This application had been admitted by this Bench vide orders dated 13th August, 2019 when **Mr. Pinaki Sircar** was appointed as the Interim Resolution Professional, and Corporate Insolvency Resolution Process in respect of **M/s. Bansal Refineries Private Limited**, the Corporate Debtor, was initiated.
2. During the course of CIRP, the Resolution Professional filed various Progress Reports from time to time as per the Rules and Regulations. In the 4th Committee of Members meeting held on 26th November, 2019, it is stated that the Resolution Professional and the Financial Creditor (Corporation Bank) along with Valuers and Surveyors had visited the site on 25th September, 2019, and 8th November, 2019 at Kamnara Pir Talla, Katwa Road, Malkita, Dist. Burdwan and in the 5th COC meeting 19th December, 2019 the COC consented for re-publication of Form G and also recommended the extension in the last date for receiving the Expression of Interest. It was also resolved that since the CIRP period of 180 days was getting over on 4th January, 2020 and no viable Resolution Plan had been received, the COC

recommended for Liquidation of the Corporate Debtor as per Section 33(2) of the Code, 2016.

3. The COC also considered the list of admitted Creditors i.e. the Financial Creditor to the tune of Rs.1,10,72,14,831.70 (Rupees One Hundred Ten Crores Seventy Two Lacs Fourteen Thousand Eight Hundred Thirty One and Paise Seventy Only) and the Operational Creditors to the tune of Rs. 1,29,01,378/- (Rupees One Crore Twenty Nine Lacs One Thousand Three Hundred Seventy Eight Only). It is stated that the Resolution Professional has also received the Valuation Report from all the Valuers for all the three classes of assets and the report from the Forensic Auditors has also been received by the RP and the Information Memorandum was prepared and the same are enclosed as Annexure 'D' with the 5th Progress Report.

4. It is also stated in the 5th Progress report that a sum of approximately Rs. 15,15,943.60 (Rupees Fifteen Lacs Fifteen Thousand Nine Hundred Forty Three and paise Sixty Only) was the CIRP cost till date (Annexure 'E') to the 5th Progress Report.

5. It is submitted that no resolution seems to be possible and the COC has also consented in its meeting that the Liquidation of the Corporate Debtor is the only option. It has also been resolved that the CIRP cost/expenses would be contributed by each member of the COC.

6. In view of the fact that there is no viable resolution plan received by the Resolution Professional till the expiry of the statutory period of 180 days,

supported by the recommendation of the COC passed with 100% voting share to liquidate the Corporate Debtor, on the request of the RP, we deem it fit and proper in these circumstances to pass an order for liquidation of the Corporate Debtor.

7. We, therefore, consider it proper, without any reservations to the contrary, to pass an order of **liquidation** under Section 33(2) of the Code upon the following directions.

ORDERS


- (i) In view of the facts that the Corporate Debtor has been ordered to be liquidated. **Mr. Pinaki Sircar**, an Insolvency Professional who is holding IBBI registration No. **IBBI/IPA-002/IP-N00063/2017-18/10141** is appointed as the Liquidator and act in accordance with 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


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effect and that a fresh moratorium u/s 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.
- (vi) **C.P. (IB) No. 11/KB/2019 is disposed of as above. All the pending CAs, if any, also stand disposed of.**
- (vii) Urgent certified copy of this order, if applied for, be issued to the parties upon compliance of all requisite formalities.


(Harish Chander Suri)
Member (T)


(Jinan K.R.)
Member (J)

Signed on this, the 17th day of January, 2020.

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