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IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI

COURT-VI

Item No. 212
IB-1551/ND/2019

IN THE MATTER OF:
Volga Estates Pvt. Ltd.

...PETITIONER

Vs.

Wall Rock Infracore Pvt. Ltd.

...RESPONDENT

Section
Under Section 7 of IBC

Order delivered on 11.02.2021
(Virtual Hearing)

Coram:

SHRI P.S.N. PRASAD, HON'BLE MEMBER (JUDICIAL)
DR. V.K. SUBBURAJ, HON'BLE MEMBER (TECHNICAL)

For the Petitioner/Financial-creditor :Mr. Anoop Prakash Awasthi,
Advocate.
For the Respondent/ Corporate-debtor :Mr. Aditya Nayyar, Advocate for
R2 and R3 in IA No. 5070 of 2020.
For the Resolution Professional :Mr. Rakesh Kumar, Ms. Preeti
Kashyap, Mr. Ankit Sharma,
Advocates.
For the Laxmi Steel :Mr. Mrinal Harsh Vardhan,
Advocate.
For the Applicant :Mr. Anshuj Dhingra, Ms.
Shubhangda Singh, Advocate.

ORDER

IA No. 592/2020 & 593/2020

Heard the submissions made by the Ld. Counsel for the applicants in both the Interlocutory applications. Let notice be served upon the non-applicants and thereafter non-applicants are directed to file reply within a week. Financial-creditor has submitted that since allegations are against him he must be given an opportunity to file his response to the present petitions. The

(Meenu)



CP

NK/19/02/21

applicants are directed to amend the applications within next three days and include financial creditor as a party and copy of the applications may be served on them. Matter is adjourned to **16.03.2021**.

IA No. 190/ND/2021.

In the present matter, the Resolution Plan was approved on 29.10.2020 in 8th CoC meeting of the Corporate-debtor (hereinafter called as "CD"). The Resolution Professional (RP) has filed the above numbered IA 5070 of 2020 before this Tribunal for seeking approval of the Resolution Plan on 07.11.2020. The IA No. 190 of 2021 was filed by one of the Operational-creditors challenging certain aspects of the Resolution Plan in October, 2020. It was kept pending in objections and it was finally listed before the Tribunal on 29.01.2021. On that day this Tribunal has directed to Respondents to file response in IA No. 190/ND/2021. The response to the said IA has been filed by the Resolution Professional. The matter was fixed for hearing today. Two more applications have been filed by some other Operational-creditors raising the objections to the Resolution Plan bearing No. IA No. 592 of 2021 and IA No. 593 of 2021. During the course of hearing it was submitted by the Learned Counsel for RP that filing of various objection applications in sequence from time to time post sanctioning of Resolution Plan by CoC and after submission before the Tribunal under Sections 30(6) and 31 of the IBC, 2016, may cause serious prejudice to the CIR Process of the Corporate-debtor and may defeat the purpose of Insolvency and Bankruptcy Code, 2016. If any Resolution

(Meenu)



Applicant submits a Resolution Plan it is based on the timelines and commercial viability. The said timelines and commercial viability is lost, if the said plan is continuously pending for adjudication due to numerous objection applications filed by various Creditors and Stakeholders from time to time.

In the present case the Resolution Plan was approved by CoC on 29.10.2020, however due to the different applications filed at different points of time it is still to be considered for final. Therefore, IBBI may look into such situations and place appropriate legal mechanism. The suggestion has been put forward that once application for approval of the Resolution Plan has been filed by the Resolution Professional under Section 30(6) and Section 31 of the IBC before the Hon'ble Tribunal, there may be a need of publication of such filing with a notice to creditors and any stakeholders to file their objections, if any within time frame. Any objector may approach the Tribunal in that case within a prescribed period. In that case, the Hon'ble Tribunal will be in a position to decide all objections of the Resolution Plan expeditiously. This will be cost effective and also saves time of all stakeholders including the valuable time of the Tribunal.

Further in a situation, once all applications are decided together alongwith the application for Resolution Plan even the Appellate Authority may comprehensively deal with the appeal. Otherwise, the peace-meal challenges before the Hon'ble NCLAT against the disposal of the objections of the Resolution Plan may further delay the proceedings. There must be a

(Meenu)



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mechanism for dealing with all the objections at once by the Tribunal. The process of CIRP under IB Code is time bound process and the said time bound process can be achieved once the plan is expeditiously disposed by the Tribunal. The Resolution plan approvals are getting generally delayed due to the reason of several objection applications being filed from time to time. If the objection applications filed at once within the prescribed time, it may expeditiously dispose resolution plan. It will assist in achieving the purpose of IB Code.

In the cases of mergers and amalgamations under Section 232 of the 'Companies Act' as well before the Tribunal, after filing the second motion if anyone has the objection they may approach the Tribunal to file objection. The similar process may also be adopted with respect to Resolution plan at the time of filing the application u/s 30(6) & 31 of IB Code for seeking the approval of the resolution plan by the Tribunal.

A copy of this order may be served on IBBI to take note of the above and to do the needful.

This IA is also posted to **16.03.2021**.

- SD -
(V.K. Subburaj)
Member (T)

(Meenu)



- SD -
(P.S.N. Prasad)
Member (J)


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