

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

I.A (IBC) No.636 /KB/2022

In
C.P. (IB) No. 1400/KB/2018

In the Matter of:

An application Under section 65 of the Insolvency and Bankruptcy Code, 2016 and read with Rule 11 of the National Company Law Tribunal Rules, 2016.

And

In the Matter of:

Stressed Assets Stabilization Fund

....Petitioner

Versus

Ispat Profiles India Limited

... Respondent

And

In the Matter of:

Rashtrawadi Shramshakti Mahasagh

... Applicant

-Versus-

Rajiv Kumar Agarwal & Ors

....Respondents

Date of Hearing : 14/07/2022

Date of pronouncing the order :18 /07/2022

Coram:

Mr. Rohit Kapoor, Member (Judicial)

Mr. Harish Chander Suri, Member (Technical)

Counsel appeared physically/through video conference :

For applicant IA/636/2022 : Mr. Jitendra Patnaik, Adv.

For Respondent No.2 : Mr. D.N.Sharma, Adv.
Ms. Shruti Swaika, Adv.
Ms. Iram Hassan, Adv.
Mr. Sanket Sarawgi, Adv.
Ms. Yukti Agarwal, Adv.

For erstwhile RP : Mr. Mamta Binani, Adv.
Mr. Rohit Sharma, Adv.

ORDER

PER: Harish Chander Suri, Member (Technical):

1. This Court convened through video conferencing.
2. The Interlocutory Application (IBC)No. 636/KB/ 2022 has been moved by one Rashtrawadi Shramshakti Mahasagh , a registered Trade Union having its registered office at Flat No. B-2, Anandshree Society, Ganesh Nagar, Behind Anandpark Bus Stop, Wadgaon Sheri, Pune- 411014, Maharashtra inter alia, seeking stay of operation of order pronounced on 29th April, 2022 in IA No. 678/2021 arising out of CP No. 1400/KB/2018, thereby directing the Successful Resolution Applicant/ Uranus Softech Park Private Limited not to take any steps or to make any investment pursuant to the order dated 29th April, 2022.
3. It is submitted that vide order dated 29th April, 2022, this Adjudicating Authority had approved the Resolution Plan. It is stated that prior to that, the CoC had approved the same without application of mind. Since the realizable value of the Pune Plant of the Corporate Debtor will fetch much more than the amount that the Resolution applicant is offering. It is stated that it is a matter of life and death of the workers and employees of the Corporate Debtor who have been waiting their claim to be released for the last 22 years and upon approval of the resolution plan, they will be paid only 4-5% of all their total admitted claim which they will otherwise arrange themselves to get consideration by liquidating the assets of the Corporate Debtor. In this regard, it would be seen that the factory of the Corporate Debtor has been lying closed for 22. The workers, and employees, the company has been in litigation

at various levels including the Hon'ble High Court of Bombay and before the Hon'ble Supreme Court of India in Civil Appeal No. 6463-6464 of 2005, which was later dismissed.

4. It is submitted that the lock-out that had been declared by the management of the Company, is illegal and unjust and therefore, the workers and staff members are entitled to their wages for the lock out period.

5. In the present petition under Section 7 of the Code filed by Stressed Assets Stabilization Fund, the said petition was admitted and the process of CIRP was initiated by appointment of Rajiv Kumar Agarwal as IRP, who was later on appointed as RP on 30th December, 2019. The RP invited claims against the company. The workers and staff of the company at Pune plant also submitted their claim with the R.P. Further, the resolution plan of the successful resolution applicant i.e. Uranus Softech Park Private Limited was finally approved by the CoC and by this Adjudicating Authority as well.

6. It is submitted that the resolution plan of Rs.10471.03 (lacs) as against the total claim of Rs.5,04,601.75 (lacs) which is stated to be only 2% of the total admitted claim, out of which the total proposed claim to be paid to the workers and employees is 4.65% of their total admitted dues.

7. It is further submitted by the applicant that the valuation report of 30th April, 2016 would reveal that the value of the land and building, and plant and machinery was Rs.171 Crore.

8. It would be seen that the resolution plan of Uranus Softech Park Private Limited had been approved with 100% majority by the CoC as against the minimum threshold of approval by 66% majority of the CoC and resolution plan was also found viable and feasible for revival of the Corporate Debtor and there was no objection from any quarter at the time of approval of the resolution plan.

9. In the aforesaid circumstances, the present application at this stage by the applicant/ Trade Union is certainly an attempt to scuttle and hinder the process of resolution plan of the Corporate Debtor.

10. We do not find any substance or merit in the present application and the same is, thus, dismissed with cost of Rs. 25,000/-

11. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

(Harish Chander Suri)
Member (Technical)

(Rohit Kapoor)
Member (Judicial)

Order signed on the 18th day of July, 2022

PJ.