

FREE OF COST COPY

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT - II)

Item No. 206

(IB)-3390(ND)2019

IA-6110/2022, IA-1295/2022

IN THE MATTER OF:

M/s. D. P. Industries

... **Applicant/Petitioner**

Versus

M/s. Jai Sai Ram Steel Pvt. Ltd.

... **Respondent**

Under Section: 9 of IBC, 2016

Order delivered on 16.02.2023

CORAM:

SHRI. ASHOK KUMAR BHARDWAJ,
HON'BLE MEMBER (J)

SHRI. L. N. GUPTA,
HON'BLE MEMBER (T)

PRESENT:

For the RP : Adv. Neeraj Kr. Gupta

ORDER

IA-6110/2022: There is no appearance on behalf of the Respondent Nos. 3 & 5 despite service of notice. Thus, they are proceeded against ex-parte. Let fresh notice be issued to Respondent No. 1, 2 & 4. Ld. Counsel for the Applicant undertakes to serve notice upon the said Respondents by substituted modes i.e., by way of publication in two nationalised newspapers one in English and another in vernacular, in circulation in the locality in which the registered office of the CD is located. Affidavit of service by substituted mode may be filed within 14 days. List on 24.03.2023.

IA-1295/2022: The Applicant herein i.e., the Liquidator has filed the Captioned IA, espousing that in its 3rd Meeting held on 27.01.2022, the CoC i.e., Punjab National Bank (with 100% voting shares) i.e., the Sole Member of the Committee of Creditors of CD i.e., Jai Sai Ram Steel Private Limited passed the Resolution in favour of Liquidation of the CD. The CoC has also recommended the name of Mr. Kapil Dev Dhir (IBBI/IPA-001/IP-P-02077/2020-2021/13227) to be appointed as Liquidator. We have heard the Counsel for the Liquidator and perused the record. The relevant excerpt of the Resolution passed in the meeting of the CoC held on 27.01.2022, reads thus:

"Resolution No. 3

Punjab National Bank, Sole Member of CoC discussed the issued, and CoC with 100% voting passed the following resolution: -

"Resolved that Punjab National Bank, Sole Member of CoC decided not to seek the extension of the CIRP and opted for the liquidation of the CD."

Issue No. 4

To authorize the IRP to file an application u/s 33 of IBC before Adjudicating Authority for liquidation of the CD and to take note of the application filed

UPASANA



FREE OF COST COPY

before AA by RP in compliance of the Code and performed/undertaken by IRP in compliance of the Code and compensate/fix the remuneration/professional charges @Rs. 7,500/- per hearing to be paid to the IRP to effectively represents/contest all the applications filed/pending before Adjudicating Authority.


Resolution No.4

Punjab National Bank, Sole Member of CoC discussed the issue, and CoC with 100% voting passed the following resolution: -

“Resolved that Punjab National Bank, Sole member of CoC recommended the name of PNB panelled IP Mr. Kapil Dev Dhir, Registration No. IBBI/IPA-001/IP-P-02077/2020-2021/13227 to be appointed as Liquidator.”

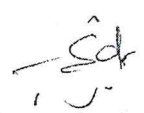
Besides there being the Resolution passed by the CoC opting for Liquidation of the CD, we also find that the CIRP commenced on 30.07.2021 and despite expiry of a period of more than 500 days, i.e., much beyond the maximum period prescribed for the purpose, no resolution plan under Section 30(6) of IBC, 2016 has been filed before this Authority, qua the CD. In terms of the provisions of Section 33(1)(2) of IBC, in the event of non-receipt of any resolution plan under sub-section 6 of Section 30 of IBC, 2016 within maximum period prescribed for completion of the period of CIRP or there being a resolution/decision approved by not less than 66% of voting shares to liquidate the Corporate Debtor as the case may be, the Adjudicating Authority should pass a liquidation order. In the present case, apparently no resolution plan under Section 30(6) of IBC, 2016 has been filed and the maximum period of CIRP has expired. Besides, the CoC has also taken a decision with 100% voting share to liquidate the CD. Indubitably, the RP has filed the resolution of CoC to liquidate the CD before this Adjudicating Authority. In the wake, the CD is ordered to be liquidated in the manner laid down in Chapter III of the IBC, 2016. Mr. Kapil Dev Dhir (IBBI/IPA-001/IP-P-02077/2020-2021/13227), IP, whose name has been proposed by the CoC is appointed as Liquidator. The Liquidator shall make a public announcement, stating that the Corporate Debtor is in liquidation. The announcement shall be made by way of publication in two leading newspapers, one in English and other one in Vernacular language circulation in the locality where the registered office of CD is situated. We are sanguine that the Liquidator shall discharge his function in terms of the extent provisions of Chapter III of IBC, 2016 read with IBBI (Liquidation Process) Regulations 2016. The RP/CD shall send a copy of this order to the jurisdictional ROC. The fees of the Liquidator shall be payable as per Section 34(9) of IBC, 2016.

The application stands disposed of, no cost.


(L. N. GUPTA)
MEMBER (T)



UPASANA


(ASHOK KUMAR BHARDWAJ)
MEMBER (J)


28/02/2023
सहायक रजिस्ट्रार
ASSISTANT REGISTRAR
राष्ट्रीय कम्पनी विधि अधिकरण
NATIONAL COMPANY LAW TRIBUNAL
C.G.O. COMPLEX, NEW DELHI-110003