

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

**I.A. NO.            of 2020  
IN  
CP (IB) No. 78/KB/2019**

**IN THE MATTER OF:**

An Application under Section 30 (6) read with Section 31 Of The Insolvency And Bankruptcy Code 2016 Read with Regulation 39 (4) Of The Insolvency And Bankruptcy Board Of India (Insolvency Resolution Process For Corporate Persons) Regulations, 2016

**AND**

**IN THE MATTER OF:**

**UNITED BANK OF INDIA** (Now merged with PNB) carrying on its business from its Branch Office at Singur Branch, Ashutosh Pada Sarani, Station Road, Singur, Hooghly - 712 409

**..... Financial Creditor**

**VERSUS**

**MONDAL & MANNA COLDSTORE PRIVATE LIMITED**, having its Registered Office at Village Ratanpur, P.O. Singur, District Hooghly - 712409

**..... Corporate Debtor**

**AND**

**Mrs. UMA KOTHARI**, Resolution Professional in CIRP of Corporate Debtor, Mondal & Manna Coldstore, having office situated at 20A, Charu Chandra Place East, Kolkata-700033, W.B.,

**.... Resolution Professional/  
Applicant**

**Counsels appeared through Video Conference:**

- |                                   |          |  |
|-----------------------------------|----------|--|
| <b>1. Mrs. Uma Kothari</b>        | <b>]</b> | <b>Resolution Professional</b>   |
| <b>2. Mr. S. Jegan Kovil Mani</b> | <b>]</b> | <b>Assistant General Manager, Zonal Office<br/>Punjab National Bank (erstwhile United<br/>Bank of India)</b> |

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

**Date of hearing: 13<sup>th</sup> July, 2020.**

**Order pronounced on 13<sup>th</sup> July, 2020.**

**ORDER**

**Per Shri Jinan K.R., Hon'ble Member (J)**

1. Mrs. Uma Kothari, the Resolution Professional filed this application for approval of a resolution plan of Mondal & Manna Cold Store Pvt. Ltd., Corporate Debtor, which has been approved by the Committee of Creditors by a voting share of 100%.

2. Since this Tribunal work is disrupted due to lockdown due to COVID-19 pandemic, this application has been filed requesting for urgent hearing before lifting the lockdown. Having been satisfied with the urgency trying to set up, the application is admitted and listed for hearing on today (13.07.2020).

3. On an application filed by the Financial Creditor / United Bank of India under Section 7 of the Code for initiating Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor/Mondal & Manna Cold Store Pvt. Ltd this Adjudicating authority passed an order dated 23.09.2019 for initiating CIRP, by appointing Mrs. Uma Kothari as Interim Resolution Professional. The IRP had caused public notice in terms of Section 13 of the Code read with Regulation 6(1) of the Insolvency and Bankruptcy Board of India (Insolvency Process for Corporate Persons) Regulations, 2016 in newspapers local and English and also mailed the public announcement to IBBI for publishing it its website which was duly published. Intimation was also given to the Corporate Debtor as well as the Statutory Authorities of her appointment as Interim Resolution Professional.

4. The CoC was constituted on 16.10.2019 which held 7 (seven) meetings, the last being held on 16.03.2020. In the course of continuing the process two Registered Valuers were appointed to ascertain the estimated realizable values of the assets of the Corporate Debtor as per regulation 27 of Insolvency and Bankruptcy Board of India (Insolvency Resolution for Corporate Persons) 2016. The liquidated value of one pond which is the only asset in possession of the Corporate Debtor, was assessed at Rs. 28,90,500.

Publishing the announcement on Form G was done on 26.12.2019 in the newspapers and in the website of IBBI as required under regulation 36A (1) of IBBI Regulations.

**5.** Two applications were received in response to the publication of EOI. The RP presented the provisional list of prospective Resolution Applicants in terms of regulation 36A(10) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 which was approved by the CoC and duly conveyed to the Prospective Resolution Applicants by way of email on 17.01.2020. The Resolution Plan submitted by one of the Resolution Applicants namely, Maa Tara Projects, was compliant as per provisions of the Code, 2016.

**6.** Since not much time was left in hand before the expiry of 180 period after initiation of CIRP which was going to expire on 20.03.2020, M/s Ma Tara Project was asked to submit their revised plan based on their final highest offer. The CoC after discussing the revised plan submitted by the Resolution Applicant decided to close the deal in view of the limited time at disposal.

**7.** M/s Ma Tara Projects submitted their resolution plan with changes as suggested by CoC on 16.03.2020. Out of the Rs. 10,00,000 upfront payment to be made by them, an amount of Rs. 4,75,105 would be provided towards CIRP costs. The Resolution Plan was approved by CoC with 100% of vote share.

**8.** After evaluation of the proposal and approval by the Committee of Creditors of the Resolution Plan submitted by Maa Tara Projects, an application was filed and the matter was listed for hearing on 19.03.2020 when the final report along with the resolution plan was to be submitted before this Tribunal for final adjudication. The hearing was postponed to 22.04.2020 due to the situation of Covid 19. The matter could not be heard on 22.04.2020 either due to the nation-wide lockdown in view of the pandemic and hence filed this application for urgent hearing of the matter through video conference.

**9.** A snapshot of the Resolution Plan presented as Final Binding Resolution Plan by the Resolution Applicant (Consortium) by the Resolution Applicant is given below :

**a)** The necessary repairs and maintenance work to prepare the cold storage ready for the upcoming season will have to be done. The working capital requirements will be for paying electricity bills, salary, labour charges, chemical consumption and periodical maintenance and repair work. The working capital requirement will not be significant and the RA will mop up this fund as loan from Shareholders and others.

b) Payment of past dues and Term plan for acquisition of Mondal & Manna Coldstore Pvt. Ltd., have been taken into account bearing in mind the interest of all stakeholders while devising the Resolution Plan.

c) The upfront payment proposed is Rs. 10 lakhs within 30 days of NCLT Order.

d) Funds required will be raised by RA from their own sources.

#### Payment mechanism

e) Entire CIRP costs will be paid on priority over all other dues. CIRP expenses are not to be paid by the RA.

f) The dues totaling to Rs. 2.00 Crores payable to Secured Financial Creditors will be paid irrespective of whether they support the Resolution Plan or not.

g) Security – United Bank of India / RP will execute sale deed for the sale of pond upon full payment of Rs. 10 .00 lakhs by the RA. UBI also agrees to remove / vacate the charge on the pond immediately on realization of payments from Resolution Applicants.

h) Prepayment charges are not applicable. RP has not received any claim with respect to dues on account of workmen & employees and hence no amount is payable on this Creditors, Operational Creditors and Statutory Dues and therefore, no payment is to be made on these counts too.

i) Value payable to equity shareholders of the Corporate Debtor is Nil.

j) SCHEDULE OF PAYMENT OF RESOLUTION AMOUNT :

Particulars	Resolution Debt	Resolution Amount	30 Days	12 months	24 months	36 months	Total
United bank of India	200.58	10.00	10.00	0.00	0.00	0.00	10.00
CIRP Cost (estimated)	2.00	0.00	0.00	0.00	0.00	0.00	0.00
Workmen & Employee Dues	0.00						0.00

Employee Dues	0.00						0.00
Unsecured Financial Creditors	0.00						0.00
Operational Creditors	0.00						0.00
Statutory Dues	0.00						0.00
Equity Share Holders	0.00						0.00
<b>Total</b>	<b>203.58</b>	10.00	10.00	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	10.00

10. Upon screening the Resolution Plan and on hearing the RP in person, we are satisfied that although the resolution applicant (RA) has not proposed to pay the CIRP cost as per the plan, the Ld. RP clarified that the Resolution Amount of Rs. 10 lakhs covers the payment of CIRP expenses of Rs. 4.75 lakhs. In regards non submission of Compliance Certificate in Form H under Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 it is submitted that the certificate has been prepared but could not upload the same along with the plan and she immediately uploaded the same and thereby compiled the requirements. Ld.RP submitted that the only assets involved for resolution is a pond and the cold storage was already auctioned by the RA in SARFAESI proceedings and that plan contains provisions for effective implementation of the resolution plan.

11. Having heard the counsels on both sides and going through the details of the Resolution Plan submitted, we are of the opinion that it satisfies the provisions laid as per section 30(2) of the Code and the relevant rules and regulations in this regard and therefore the plan is liable to be approved upon the following directions :-

### **ORDERS**

i) Resolution Plan of MONDAL & MANNA COLDSTORE PRIVATE LIMITED, which is approved by CoC with 100% voting shares, is hereby approved under provisions of sub-

section(1) of Section 31 of the Insolvency and Bankruptcy Code, 2016, which shall be binding on the Corporate Debtor, M/s Mondal & Manna Cold store Pvt. Ltd., its employees, members, creditors, guarantors, the Central Government, any State Government or any local authority and other stakeholders involved in the Resolution Plan.

**ii)** The Resolution Plan shall come into force from the date of pronouncement of this order.

**iii)** The moratorium order passed under Section 14 shall cease to have effect.

**iv)** The Resolution Professional shall forward all records relating to the conduct of the Corporate Insolvency Resolution Process and the Resolution Plan to the Insolvency and Bankruptcy Board of India to be recorded in its database.

**v)** IA(IB) ....of 2020 in C.P. (IB) No. 78/KB/2019 is allowed. C.P. (IB) No. 78/KB/2019 is disposed of.

**vi)** Registry of hereby directed to communicate the order to all the Applicants, Respondents and to the Resolution Applicant and to IBBI, through email and free copy.

**vii)** 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 (T)**

**(Jinan K.R.)**

**Member (J)**

**Signed on this, the 13th day of July, 2020**