

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

**IA-5373/2022**

**IN**

**CP (IB) – 144(PB)/2017**

THE APPLICATION UNDER SECTION 60(5) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 READ WITH REGULATION 37A OF THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (LIQUIDATION PROCESS) REGULATIONS, 2016.

**IN THE MATTER OF:**

**ICICI BANK LTD.**

*HAVING ITS REGISTERED OFFICE AT:*

**ICICI BANK TOWER, NEAR CHAKLI CIRCLE, OLD PADRA ROAD,  
GUJARAT, VADODARA-390007**

*HAVING ITS PRINCIPAL/REGIONAL OFFICE AT:*

**ICICI BANK TOWER, NBCC PLACE, BHISHM PITAMAH MARG,  
PRAGATI VIHAR, NEW DELHI-110003**

*CIN: L65190GJ1994PLC021012*

**..... FINANCIAL CREDITOR**

**VERSUS**

**S.R. FOILS & TISSUE LTD.**

*HAVING ITS REGISTERED OFFICE AT:*

**2nd FLOOR, VARDHMAN PLAZA-II, J-BLOCK COMMUNITY CENTRE,  
RAJOURI GARDEN, NEW DELHI-110027**

*CIN: U24246DL1997PLC088633*

**..... CORPORATE DEBTOR**

**AND IN THE MATTER OF:**

**ANIL KOHLI**

LIQUIDATOR FOR S.R. FOILS & TISSUE LTD.

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**ICICI BANK LTD. vs. S.R. FOILS & TISSUE LTD.  
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**ADDRESS: 409, 4<sup>th</sup> FLOOR, ANSAL BHAWAN, K.G. MARG, NEW  
DELHI - 110001.**

**..... APPLICANT**

**ORDER PRONOUNCED ON: 02.03.2023**

**CORAM:**

**CHIEF JUSTICE (RETD.) RAMALINGAM SUDHAKAR  
HON'BLE PRESIDENT**

**SH. AVINASH KUMAR SRIVASTAVA  
HON'BLE MEMBER (TECHNICAL)**

**APPEARANCES:**

For the Applicant : Mr. Ayush Puri, Mr. Prateek Kumar Jha,  
Adv in IA-5883/2021  
Mr. Vishal Meghwal, Advocate in Appeal  
70/2022  
Mr. Nikhil Jain, Ms. Simran Jeet, Mr.  
Rishabh Gupta, Mr. S.C. Garg in person  
DGM

For the Respondent : Mr. Manish Dhir, Adv for Respondent/EPFO  
in IA 879/2022

For the Successful : Mr. Prateek Gupta, Mr. Nikhil Jha, Advs.  
Auction Purchaser

For the Liquidator : Mr. Abhishek Anand, Mr. Nipun Gautam,  
Mr. Karan Kohli, Mr. Sahil Benetai, Advs.

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**ORDER**

**PER: AVINASH K. SRIVASTAVA, MEMBER (TECHNICAL)**

1. **IA-5373/2022** is an Application filed by **ANIL KOHLI**, the Liquidator of **S.R. FOILS & TISSUE LTD.**, on 29.10.2022, before this Adjudicating Authority, under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 [**“the Code”** or **“IBC”**] read with Regulation 37A of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, [**“Liquidation Regulations”**] for seeking the following relief:
  - a) *“Allow the present Application;*
  - b) *Kindly grant approval to the Liquidator for Assignment of all Rights and interests regarding Plot area approx. 57,935 sqm at SP-26, SP-26(A) & SP-26(A1), Industrial Area, Sotanala, Tehsil Behror, Distt. Alwar, Rajasthan including building(s) constructed thereupon and including entire plant and machinery, including rights of litigation for allotment cancelled by RIICO for its outstanding dues of Rs. 53,29,789/- and all consequent rights for owning the subject assets to M/s Kalptaru Resolutions Pvt Ltd. on being declared as the Successful Bidder in the E-auction conducted on 18.10.2022 for a total consideration of Rs. 21,21,00,000/- in compliance of Order dated 08.07.2022 passed by this Hon'ble Adjudicating Authority;*
  - c) *Pass such other or further order/ order(s) as may be deemed fit and proper in the facts and circumstances of the instant case.”*
2. This Hon'ble Adjudicating Authority *vide* its order dated 07.08.2017 was pleased to admit the captioned petition i.e., **Company Application(IB)144(PB)/2017** filed on behalf of the Financial Creditor i.e., ICICI Bank Ltd. against the Corporate Debtor i.e., S. R. Foils & Tissue Ltd. for initiating the Corporate Insolvency Resolution Process (**“CIRP”**) under Section 7 of the Code.

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3. The Corporate Debtor was incorporated on 21.07.1997, as a Company Limited by Share (Non- govt. Company) having CIN: U24246DL1997PLC088633, under the Companies Act, 1956. The Authorised Share Capital of the Corporate Debtor is Rs. 15,00,00,000/- (*Rupees Fifteen Crores only*) and the Paid-up Share Capital of the Corporate Debtor is Rs.13,87,34,800/- (*Rupees Thirteen Crores Eighty Seven Lakhs Thirty Four Thousand Eight Hundred only*). On the date of application, the Corporate Debtor is engaged in the Manufacture of other chemical products. The Registered Office Address of the Corporate Debtor is 2nd FLOOR, VARDHMAN PLAZA-II, J-BLOCK COMMUNITY CENTRE, RAJOURI GARDEN, NEW DELHI-110027. Therefore, this Bench has jurisdiction to deal with this application.
4. The Applicant/Liquidator filed an application under Section 33(2) of the Code before this Hon'ble Adjudicating Authority bearing I.A.1034(PB) 2020, wherein vide order dated 04.03.2020 this Hon'ble Adjudicating Authority was pleased to allow the application directing Liquidation of the Corporate Debtor under Section 33(2) of the Code. Copy of order dated 04.03.2020 passed by the Hon'ble Adjudicating Authority is annexed herewith and marked as **ANNEXURE A-1**.
5. The RIICO after becoming aware of the Liquidation Proceedings and the public announcement made in Business Standard (English) - Delhi/NCR Edition dated 09.03.2020 made by the Liquidator inviting claims from all the stakeholders of the Corporate Debtor, vide Demand Notice dated 20.03.2020, requested the Liquidator to deposit a sum of Rs. 53,29,789/- (*Rupees Fifty Three Lakhs Twenty Nine Thousand Seven Hundred Eighty Nine Only*) being the dues payable to RIICO from the sale proceeds of auction, if any conducted.
6. Accordingly, the Applicant vide its email dated 10.06.2020 replied to the demand notice dated 20.03.2020 wherein, the Applicant once

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again apprised RIICO about the liquidation order dated 04.03.2020 passed by this Hon'ble Adjudicating Authority and also apprised RIICO that since, RIICO comes under the category of Operational Creditor therefore, RIICO is required to submit its claim in FORM C. The Applicant also provided the format of FORM C to RIICO in order to allow RIICO to file its claim before the Applicant.

7. However, RIICO *vide* cancellation order dated 11.06.2020 cancelled the allotment of plot nos. SP-26, SP-26(A) & SP-26(A1).

**8. Facts of the Case:**

- i. The Rajasthan State Industrial Development & Investment Corporation Ltd (RIICO), EPIP, Neemrana, Distt. Alwar, had allotted the plots being SP-26(A) measuring 17132 sq.m. and Plot No. SP-26(A-1) measuring 20485 sq.m. at Industrial Area Sotanala, Tehsil, Behror, Distt. Alwar, Rajasthan to the Corporate Debtor. That earlier the name of the Corporate Debtor was R.S. Hygiene Pvt Ltd and the same was subsequently changed to S.R. Foils & Tissue Ltd on 18.10.2007.
- ii. It is pertinent to mention herein that the Corporate Debtor had made application no. 35494 dated 15.06.2005 for allotment of land with RIICO for the establishment of the industry at Industrial Area, Sotanala. Accordingly, *vide* letter dated 11.08.2005, RIICO allotted SP-26 (A) measuring 17132 sq.m. and Plot No. SP-26(A-1) measuring 20485 sq.m. at Industrial Area Sotanala, Tehsil Behror, Distt. Alwar (Raj) respectively.
- iii. Pursuant to the above, two lease deeds dated 20.07.2005 and 22.08.2005 were executed between RIICO and the Corporate Debtor for a period of 99 years with respect to the Plot bearing no. SP-26 (A) measuring 17132 sq.m. and Plot No. SP- 26(1) measuring 20485 sq.m. At Industrial Area Sotanala, Tehsil Behror, Distt. Alwar (Raj) respectively.

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- iv. The possession of both plots was handed over to the Corporate Debtor by RIICO vide possession letters dated 12.08.2005 and 22.08.2005. That the Corporate Debtor vide Sale Deed registered on 25.02.2006 purchased Plot No. SP 26 measuring 20,025 sq.m. from M/s Shyam Lal Fertilizers & Chemicals Private Limited and was transferred in the name of Corporate Debtor by RIICO on 31.03.2006.
- v. Subsequently, vide letter 20.07.2006, the RIICO accepted the request of the Corporate Debtor to combine Plot No. SP26 & SP26A, SP26A-1. Subsequently, upon change of name of the Corporate Debtor from R.S. Hygiene Pvt Ltd to S.R. Foils & Tissue Ltd, RIICO vide letter dated 25.10.2010 permission for incorporating the change of name in the lease deeds.
- vi. Vide letter dated 09.03.2011 the Corporate Debtor was granted permission to mortgage the Plot No. SP-26 & SP-26(A), SP-26(A-1) to ICICI Bank Ltd. It is also pertinent to mention here that ICICI Bank also vide letter dated 23.03.2011 sought permission from RIICO. That RIICO vide its letter dated 29.07.2011 granted the permission for mortgage.
9. This Adjudicating Authority passed order dated 17.08.2020 in IA No. 3115 of 2020 filed by the Liquidator and directed not to take physical possession of the plots from the CD.
10. The Liquidator/Applicant made an unsuccessful attempt to sell the CD as a going concern, followed by 2 unsuccessful attempts to sell the assets of the CD. Subsequently, based on the approval of the Stakeholders Consultation Committee ("**SCC**"), the Liquidator/Applicant filed IA-1581 of 2022 seeking permission of this Adjudicating Authority to assign/transfer as NRRA, being all rights and interest in the plot areas at SP-26, SP-26(A) & SP-26(A1) including building, plant & machinery and all rights of litigation regarding allotment cancelled by RIICO. This Adjudicating Authority

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by order dated 08.07.2022 allowed the application. The order dated 08.07.2022 is extracted below:

ORDER

**IA-1581/2022**

Application has been filed by the Liquidator seeking following reliefs:

*"a) Allow the present application,*

*(b) Grant permission to the Liquidator under Regulation 37A of the Liquidation Process Regulations, 2016 for assignment/transfer of Non-Readily Realisable Assets of SR. Foils & Tissue Limited being all rights of litigations and interests regarding Plot area approx 57,935 sqm at S.P.-26. SP-26(A), & SP-26/1), Industrial Area Sotanala, Distt. Alwar Rajasthan including building(s) constructed thereupon, entire plant & machinery and including all Rights of litigation regarding allotment cancelled by RICO in terms of Regulation 37A of the Liquidation Process Regulations, 2016 as approved by the Stakeholders for completion of Liquidation process.*

*(c) Pass such other or further order/order(s) as may be deemed fit and proper in the facts and circumstances of the instant case."*

The Ld. Counsel for the Liquidator states that the reasons for seeking the above stated reliefs are as follows:

*"That furthermore, the permission from this Hon'ble Adjudicating Authority for sale of Non-Readily Realisable Assets in terms of Regulation 37A of the Liquidation Process Regulations, 2016 as approved by the Stakeholders is also being sought on the ground that such sale will significantly reduce the liquidation expenses and will enable the liquidator to conclude the liquidation proceedings of the Corporate Debtor."*

In view of the above the application is **allowed** and it is stated by the Ld. Sr. Counsel that he will seek approval of this Adjudicating Authority before actual auction as well as before actual assignment/sale.

11. Thereafter, the Applicant published notice dated 18.08.2022 under Regulation 37A of the Liquidation Regulations and received 3 offers.

**Contentions of the Applicant:**

12. The 9<sup>th</sup> meeting of SCC was convened on 12.10.2022 wherein, the Applicant informed the members of SCC that an email was received from one of the bidders thereby, increasing its bid, the relevant portion of the email was shared with members of SCC. The relevant portion of the said email is reproduced herein under:-

*"Thanks for giving us the opportunity today. As was informed by you that the SAC have decided to approach NCLT with these offers and seek permission for fresh auction thereafter, then we shall be happy to participate in the fresh process. But as nothing was specifically mentioned about the process in future in your last process memorandum, so we would expect that all the three bidders will be given equal opportunity and rights in the upcoming process. Further if the process intends to give any advantage (like in Swiss challenge method) to the highest bidder then, we would like to inform you and SAC that we hereby improve our Bid amount to 14.51 crores."*

13. The Applicant further apprised the members of SCC that a legal advice was sought in order to explore options for value maximization and furthermore, with respect to best possible course of action. It was opined that equal opportunity be given to the bidders who had expressed interest with EMD but quoted a lower bid so that they may not raise objections later. Whereas an open auction will be prejudicial to the interests of the bidders who have submitted their offers with the requisite EMD. It was suggested that online bidding be conducted by keeping Rs. 14.51 crores as the reserve price which shall ensure transparency and maximization of value to the stakeholders along with the minimal possibility of litigations.



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14. The Applicant further apprised that an Application being I.A. 4806 of 2022 with respect to seeking permission for inter-se online bidding was filed before this Hon'ble Adjudicating Authority on 27.09.2022 and the same has been allowed vide Order dated 07.10.2022 by the Hon'ble NCLT. Copy of Order dated 07.10.2022 passed by this Hon'ble Adjudicating Authority is annexed herewith and marked as **ANNEXURE A-5**.
15. After much discussions and deliberations on the process to be followed in the inter-se bidding, the following process was decided to be followed: -
- a. *“An inter-se bidding will be conducted among the participants through an online platform and the bidders will be asked to register themselves on the online platform.*
  - b. *The Reserve Price (Floor Price) will be Rs. 14.51 crore*
  - c. *The bidding will be held on Tuesday i.e. 18 Oct 2022 and will be kept open for 1hour starting 11:00 am and if the bids are received in the last 5 minutes, the bid time will automatically increase by 5 mins if an incremental bid is submitted in last 5 minutes as it usually happens in all bidding processes.*
  - d. *The highest bid shall be put before the stakeholders committee and if accepted the same will be placed before Hon'ble NCLT for its approval.*
  - e. *The person making the highest bid shall have to make the entire payment within 15 days of the Hon'ble NCLT's order approving the bid. The time period for making entire payment may be extended at the sole discretion of the stakeholders' consultation committee subject to terms i.e. interest applicable as envisaged in the liquidation process regulations on payment of the interest stipulated therein.”*

Copy of minutes of 9th meeting of SCC dated 12.10.2022 is annexed herewith and marked as **ANNEXURE A-6**.

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16. Pursuant thereto, inter-se bidding was conducted for Assignment of all Rights and interests regarding Plot area approx. 57,935 sq.m. at SP-26, SP-26(A) & SP-26(A1), Industrial Area, Sotanala, Tehsil Behror, Distt. Alwar, Rajasthan including building(s) constructed thereupon and including entire plant and machinery, including rights of litigation for allotment cancelled by RIICO for its outstanding dues of Rs. 53,29,789/- (Rupees Fifty Three Lakhs Twenty Nine Thousand Seven Hundred Eighty Nine Only) and all consequent rights for owning the subject assets at a starting price of Rs. 14,51,00,000/- (Rupees Fourteen Crores Fifty One Lakhs Only). The said e-auction was conducted from 11:00 a.m. on 18.10.2022 till 12:00 p.m. on 18.10.2022.
17. Upon conclusion of the inter-se bidding which was conducted on 18.10.2022, one M/s Kalptaru Resolutions Pvt Ltd was declared as Successful Bidder in the inter-se bidding. The details of the results is as follows:

| <b>INDIVIDUAL/COMPANY NAME</b> | <b>BID AMOUNT</b> | <b>BID DATE AND TIME</b> | <b>RANK</b> |
|--------------------------------|-------------------|--------------------------|-------------|
| Kalptaru Resolution Pvt. Ltd.  | 21,21,00,000/-    | 18/10/2022<br>13:10:51   | 1           |
| Laxmi Narayan Agarwal          | 21,11,00,000/-    | 18/10/2022<br>13:09:42   | 2           |
| Ramdass Trading Company        | 20,71,00,000/-    | 18/10/2022<br>12:55:53   | 3           |

Copy of the result of E-auction conducted by the way of Inter-se bidding is annexed herewith and marked as **ANNEXURE A-7**.

18. Thereafter, the Applicant herein vide email dated 18.10.2022 informed M/s Kalptaru Resolution Pvt Ltd. that it is declared as the Successful Bidder in the inter-se bidding conducted on 18.10.2022. Copy of email dated 18.10.2022 sent by Applicant to Kalptaru Resolution Pvt Ltd. is annexed herewith and marked as **ANNEXURE A-8**.

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19. In view of the aforesaid facts and circumstances, the Applicant is filing the present Application to seek approval for Assignment of all Rights and Interests regarding Plot area approx. 57,935 sq.m. at SP-26, SP-26(A) & SP-26(A1), Industrial Area, Sotanala, Tehsil Behror, Distt. Alwar, Rajasthan including building(s) constructed thereupon and including entire plant and machinery, including rights of litigation for allotment cancelled by RIICO for its outstanding dues of Rs. 53,29,789/- (Rupees Fifty Three Lakhs Twenty Nine Thousand Seven Hundred Eighty Nine Only) and all consequent rights for owning the subject assets to M/s Kalptaru Resolutions Pvt Ltd. on being declared as the Successful Bidder in the E-auction conducted on 18.10.2022 for a total consideration of Rs. 21,21,00,000/- (Rupees Twenty One Crores Twenty One Lakhs Only) in compliance of Order dated 08.07.2022 passed by this Hon'ble Adjudicating Authority.

20. It is submitted that the present application is bonafide and being filed in the interest of justice and to advance the objectives of the Code.

21. **Analysis and Findings:**

- i.** We have considered the submissions made by the applicant and have also perused the material on record.
- ii.** Counsel for Successful Auction Purchaser appeared before us and stated that they will clear the dues of RIICO. Counsel for RIICO appeared along with DGM, RIICO and stated that subject to payment of dues, they will restore the allotment in favour of the auction purchaser.
- iii.** In view of the above, we are inclined to allow this application.

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**22. Order**

- i.** In light of the above facts and circumstances, the Application bearing **IA-5373/2022** filed by **ANIL KOHLI**, the Liquidator of **S.R. FOILS & TISSUE LTD.**, under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 [**“the Code”** or **“IBC”**] read with Regulation 37A of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, [**“Liquidation Regulations”**] **stands allowed and disposed of.**
- ii.** We direct the Liquidator/Applicant for the Assignment of all Rights and Interests regarding the Plot area approx. 57,935 sq.m. at SP-26, SP-26(A) & SP-26(A1), Industrial Area, Sotanala, Tehsil Behror, Distt. Alwar, Rajasthan including building(s) constructed thereupon and including entire plant and machinery, including rights of litigation to M/s Kalptaru Resolutions Pvt Ltd. on being declared as the Successful Bidder in the E-auction conducted on 18.10.2022 for a total consideration of Rs. 21,21,00,000/- (Rupees Twenty One Crores Twenty One Lakhs Only) in compliance of order dated 08.07.2022 passed by this Adjudicating Authority.
- iii.** A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.  
  
No order as to costs.

-SD-

**(RAMALINGAM SUDHAKAR)  
PRESIDENT**

-SD-

**(AVINASH K. SRIVASTAVA)  
MEMBER (TECHNICAL)**