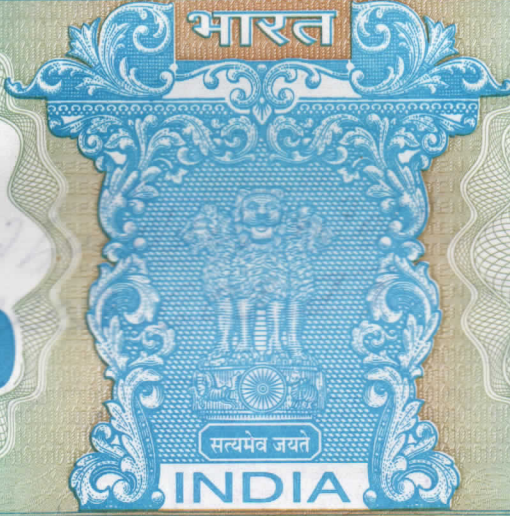


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RUPEES
Rs.10

INDIA NON JUDICIAL

पश्चिम बंगाल पश्चिम बंगाल WEST BENGAL

47AB 618239

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

I.A.No. 681/KB/2020

C.P. (IB) No. 122/KB / 2019

In the matter of the Companies Act, 2013; Section 9 IBC

AND

In the matter of: Cobra Sentinal Private Limited.

VS

Prashant Impex Private Limited.

Certified Copy of the Order dated 21.09.2020 passed by this Bench.



158495

22 SEP 2020

No. Name: Mahesh Chandra Gupta FCA, F
Address: FF 202 Salt Lake City 8

Vendor: I. CHAKRABORTY

6B, Dr. Rajendra Prasad Sarani
Kolkata - 700 001



1.
2.

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

IA(IB)No.681/KB/2020
In
CP(IB) NO.122/KB/2019

In the matter of;

An application under Section 9 of the Insolvency and Bankruptcy Code, 2016

And

In the matter of;

Cobra Sentinal Private Limited, a Company incorporated under the laws of India and having registered office at 302, Shanti Van-1, P.S. Kankarbagh, Patna, Bihar-800020

... Operational Creditor

And

In the matter of;

Prashant Impex Private Limited, a company incorporated under the laws of India and having its registered office at Wellesley House, 7, Red Cross Place, 3rd Floor, Kolkata-700001, West Bengal

... Corporate Debtor

And

In the matter of;

An application under Section 60(5) of Insolvency and Bankruptcy Code, 2016 read with Rule 11 of National Company Law Tribunal Rules, 2016.

And

In the matter of;

Mahesh Chand Gupta, Resolution Professional in the matter of Prashant Impex Private Limited having office at FE-202, Salt Lake City, Sector-III, 1st Floor, Kolkata 700106, West Bengal

... Applicant / Resolution Professional

Counsels on record:

1. Mr. ShaunakMitra, Advocate
2. Mr. Mahesh Chand Gupta

] for the Applicant
] Resolution Professional



3. Mr. SuparnaSardar, Advocate

] Advocate on record

Coram: Shri M.B. Gosavi, Hon'ble Member (Judicial) &
Shri Harish Chander Suri, Hon'ble Member (Technical)

Date of hearing: 17/09/2020

Order pronounced on 21/09/2020

ORDER

Per Shri Madan B Gosavi, Member (Judicial)

1. This is an application filed by Resolution Professional under Section 31 of Insolvency and Bankruptcy Code, 2016 for approval of the Resolution Plan of M/s Shiv Energy LLP for the Corporate Debtor M/s. Prashant Impex Private Limited. The plan has been approved by the Committee of Creditors (CoC) of the Corporate Debtor by 100% votes.
2. The Operational Creditor M/s. **Cobra Sentinal Private Limited** has filed this application under Section 9 of Insolvency and Bankruptcy Code, 2016 bearing **CP(IB) No.122/KB/2019** for initiating Corporate Insolvency Resolution Process (in short, C I R P) against M/s. Prashant Impex Private Limited. The Corporate Debtor was admitted in Corporate Insolvency Resolution Process vide order dated 27th June, 2019 passed by this Adjudicating Authority. One **Mahesh Chand Gupta** was appointed as the Insolvency Resolution Professional. The Committee of Creditors (CoC) in meeting dated 26.07.2019 confirmed his appointment as Resolution Professional by 100% votes and approved by this Adjudicating Authority. The Resolution Professional proceeded with Corporate Insolvency Resolution Process of the Corporate Debtor.
3. On 10.09.2019, Resolution Professional published notice in Form-G thereby calling upon the prospective Resolution Plan to submit expression of Interest / Resolution Plan. Since, there was no response, such notice was again published on 10.12.2019 calling upon the prospective Resolution Applicant to submit Expression of Interest or Resolution plan on or before 27.01.2020. The last date of submission of the plan was then extended to 29.02.2020.



4. On the last date of submission of Resolution Plan i.e 29.02.2020 prior to that Corporate Insolvency Resolution Process period was extended for further 90 days as per resolution of the Committee of Creditors (CoC) passed in 3rd meeting dated 01.11.2019.
5. On 17.03.2020, the Committee of Creditors (CoC) approved Resolution plan of M/s. Shiv Energy LLP by 100% votes. It was 7th Committee of Creditors (CoC) meeting. Thereafter, on 22.03.2020, Resolution Applicant submitted the Resolution plan alongwith final progress report for approval of this Adjudicating Authority. However, we could not hear the Resolution Professional on certain aspect of the approved plan because of nation-wide lockdown in between 22.03.2020 till 25.07.2020.
6. The matter was mentioned before us by Learned Counsel Mr. Shaunak Mitra for the Resolution Professional, while we are sitting in Special Bench. We accepted the request of early hearing through Video Conferencing, taking into consideration that delay in approving of the plan would be having disastrous effect to the Resolution Applicant as well as Corporate Debtor. The Resolution applicant may lose some commercial benefits. Taking into consideration the object of Insolvency and Bankruptcy Code, 2016 that the resolution of the Insolvency of the Corporate Debtor is the rule and liquidation is an exception, We heard Learned Counsel Mr. Mitra for Resolution Applicant at length.
7. Since, Corporate Insolvency Resolution Process period had already over, IA(IB) No.681/KB)2020 is filed by the Resolution Professional for exclusion of period of 129 days which wasted due to lockdown. We allowed this application.
8. We have gone through the approved Resolution Plan by the Committee of Creditors (CoC) in their commercial wisdom. The plan has been approved by Committee of Creditors (CoC) unanimously. We are not going in to commercial aspect of the plan. However, we are, within our jurisdiction, to see whether the plan is in conformity with the provision of Section 30(2) of Insolvency and Bankruptcy Code, 2016.



9. Upon perusal of the Resolution plan submitted before us we have inspected the plan in view of Sec. 30(2) of insolvency and Bankruptcy Code 2016 we find that the plan is in conformity with Regulation 38 & 39 of IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016. In the plan, provision is made to meet out the resolution process cost. There is provision made to make payment of debt of the Operational Creditors. Mechanism is suggested for the management of the affairs of the Corporate Debtor. Mechanism is also provided for effective supervision and implementation of the plan. We note that the resolution plan does not contravene anyprovisions of law and it is in conformity with all other norms issued by IBBI.
10. While approving the Resolution Plan, we make it clear that Resolution Applicant has to apply for a permission, license, grants if any to start the business a fresh to concerned local authorities / government offices. We, in our jurisdiction, cannot consider any such request made by the Resolution Applicant. It is needless to state that the approved Resolution Plan is binding upon the Corporate Debtor, its shareholders, employees, directors and other officers, its creditors being stake-holders of the Corporate Debtor.
11. With the above observation, we approve the resolution plan. We pass the following order.

ORDERS

- (i) The **Resolution Plan of M/s. Shiv Energy LLP**, which is approved by the Coc with 100% voting share, 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. Prashant Impex Private Limited**, 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) **CP(IB) No.122/KB/2019** is disposed of accordingly.
- (vi) Registry is hereby directed to communicate the order to all the concerned persons through e-mail.
- (vii) Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

sc/1-
(Harish Chander Suri)
Member (T)

sc/1-
(M.B. Gosavi)
Member (J)



CERTIFIED TO BE TRUE COPY

M.A. No. 700/2020
Date of Presentation
of application for Copy..... *28/03/2020*
No. of Pages..... *Five Page XLO*
Copying Fee..... *25/-*
Registration & Postage Fee..... *7*
Total ₹..... *60/-*
Date of Receipt &
Record of Copy..... *01/10/2020*
Date of Preparation of Copy..... *01/10/2020*
Date of Deliver of Copy..... *01/10/2020*

Shadur
DD / DR / AR / Court Officer
National Company Law Tribunal
Kolkata Bench