

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court -II)
KOLKATA**

**IA(IBC)/231(KB)2022
in
CP(IB)/522(KB)2018**

Under section 33(1)(a) of the Insolvency & Bankruptcy Code, 2016

In the matter of:

State Bank of India

.... **Financial Creditor**

Versus

Silverton Spinners Limited
(L18101WB1994PLC063733)

... **Corporate Debtor**

And

In the matter of:

Mr. Parveen Bansal,
Resolution Professional of Silverton Spinners Limited

... **Applicant**

And

**IA(IBC)/947(KB)2022
in
CP(IB)/522(KB)2018**

*Under Section 34 of the Insolvency and Bankruptcy Code, 2016
read with rule 11 of the National Company Law Tribunal Rules, 2016*

In the matter of:

State Bank of India

.... **Financial Creditor**

-Versus-

Silverton Spinners Limited
(L18101WB1994PLC063733)

.... **Corporate Debtor**

And

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court II)

IA(IBC)/231(KB)2022
& IA(IBC)/947(KB)2022
in CP(IB)/522(KB)2018

In the matter of:
Canara Bank

....**Applicant/Financial Creditor**

-Versus-

Mr. Parveen Bansal,
Resolution Professional of Silverton Spinners Limited

....**Respondent**

Order pronounced on: 25 /01/2024

Coram:

Smt. Bidisha Banerjee : **Member (Judicial)**
Shri Balraj Joshi : **Member (Technical)**

Appearances (through hybrid mode):

For RP : Mr. Mainak Bose, Adv.
Mr. Arun Kumar Gupta, PCA
Mr. Parveen Bansal, RP in person

For applicant, Canara Bank, : Mr. Ramesh Ch. Prusti, Adv.
in IA(IBC)/947(KB)2022 : Mr. Binay Upadhyay, Adv.
Mr. Sanjib Das, Adv.
Ms. Alisha Kar, Adv.

For respondent in : Ms. Aditi Sharma, Adv.
IA(IBC)/379(KB)2022

ORDER

Per: Balraj Joshi, Member (Technical)

1. This Adjudicating Authority convened through hybrid mode.
2. For convenience both IA(IBC)/231(KB)2022 and IA(IBC)/947(KB)2022 are taken together for considerations.

IA(IBC)/231(KB)2022

3. This is an application filed under section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 (“**IBC/Code**”) by the Resolution Professional (“**RP**”) of

Silverton Spinners Limited, the Corporate Debtor, praying for initiation of liquidation process of the Corporate Debtor. This application is supported by an affidavit¹ duly affirmed by the RP.

4. This Adjudicating authority, on a petition filed u/s. 7 of the IBC read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by **State Bank of India**, the Financial Creditor, *vide* order² dated 08/11/2019 in CP(IB)/522(KB)2018, has ordered initiation of Corporate Insolvency Resolution Process (“CIRP”) against **Silverton Spinner Limited**, the Corporate Debtor appointing Mr. Parveen Bansal as the Interim Resolution Professional (“IRP”). The said order was duly communicated to the IRP by the Registry.
5. In terms of regulation 6(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, (“CIRP Regulations”) Public Announcements³ in **Form A** was published on 11/11/2019 in “*Financial Express*” (English) and “*Ekdin*” (Bengali) inviting claims from the creditors of the Corporate Debtor stipulating last date of submission of claims on 22/11/2019. The aforesaid Public Announcement was also published on the website of IBBI.
6. One of the suspended members of the Board of Directors of the Corporate Debtor preferred an appeal being **Company Appeal (AT) (Ins) No. 1378 of 2019** before the Hon’ble NCLAT challenging the order of admission dated 08/11/2019. The Hon’ble NCLAT *vide* its order dated 29/11/2019 directed the Interim Resolution Professional “*not to constitute Committee of Creditors, till next date of hearing, if not yet constituted*”. However, *vide* order dated 20/09/2021 the Hon’ble NCLAT was pleased to pass the following orders in the said appeal:

“15. *We proceed to pass the following order:*

(i) *There is no substance in the Appeal, the Appeal is*

¹ At pages 16 to 18 of the application

² Annexure A at pages 19 to 29 of the application

³ Annexure B at pages 30 to 31 of the application

dismissed.

- (ii) *Interim Order passed in this Appeal dated 29th November, 2019 does not survive. The period from 29th November, 2019 till today will be excluded for the purpose of Section 12 of IBC. No costs.*”

Copies of the orders dated 29/11/2019 and 20/09/2021 form **Annexure ‘C’**⁴.

7. In response to public announcement, claims were received from three Financial Creditors and Committee of Creditors was duly formed having following members: -

1. State Bank of India (40.3% voting share)
2. Canara Bank (43.0% voting share)
3. Central Bank of India (16.7% voting share)

In terms of regulation 17(1) of the CIRP Regulations, a report certifying constitution of Committee of Creditors⁵ (“CoC”) was filed with this Adjudicating Authority.

8. First meeting of the CoC was held on 07/10/2021 wherein the resolution for continuation of the Interim Resolution Professional (“IRP”) for Resolution Professional (“RP”) was passed unanimously by the Committee of Creditors. The report communicating CoC decision for continuation of IRP as RP in terms of section 22(3)(a) of the Code forms **Annexure ‘E’**⁶.

9. In compliance of regulation 27 of the CIRP Regulations, the CoC has approved appointment of two registered valuers for their reports. Accordingly, two valuers were appointed and they have duly submitted their reports. Summary of the valuation reports forms **Annexure ‘F’**⁷

10. In terms of regulation 36A(1) of the CIRP Regulations, Form G⁸ was published on 30/10/2021 in “*Financial Express*” (English) and “*Ekdin*” (Bengali) inviting Expression of Interest (“**EoI**”) from prospective resolution applicants (“**PRA**”).

⁴ At pages 32 to 45 of the application

⁵ Annexure D at pages 46 to 90 of the application

⁶ At pages 91 to 196 of the application

⁷ At pages 197 of the application

⁸ Annexure G at pages 198 to 200 of the application

In response, only one EoI was received from one PRA, 'Nipun Gupta & Puja Gupta', along with security of Rs. 5 Lakhs.

11. The last date for submission of resolution plan was 30/12/2021, which was extended to 03/01/2022. However, PRA failed to submit resolution plan before last date notified for submission of resolution plan and requested for extension of the last date for submission resolution plan by another 10 days. The CoC, after due deliberation at its 3rd CoC meeting held on 11/01/2022, has approved extension of 10 days for submission of resolution plan by 30/01/2022.⁹
12. However, the PRA further requested for extension of the last date for submission of resolution plan by another 10 days. The CoC, after due deliberation at its 4th meeting held on 07/02/2022 and adjourned to 18/02/2022, has decided not to grant any further extension for submission of resolution plan and was also not in favour of extending the date for completion of CIRP.¹⁰
13. *Vide* order¹¹ dated 25/01/2023, this Adjudicating Authority has directed the CoC to take a conscientious decision for liquidation of the Corporate Debtor and place their decision on the same before this Adjudicating Authority for consideration. Accordingly, by a supplementary affirmed on 24/02/2023, RP has placed a copy of the minutes¹² of the 9th CoC meeting held on 13/02/2023 along with e-voting results¹³ showing 83.30% voting share in favour of liquidation of the Corporate Debtor. The resolutions so taken are as follows: -

“RESOLVED THAT Committee of Creditors (“CoC”) confirms of their decision for liquidation of Silverton Spinners Limited (“Corporate Debtor”) after due consideration, which is reflected in deliberations and decisions taken by CoC in the fourth Committee of Creditors meeting held on 07/02/2022.”

“FURTHER RESOLVED THAT CA Parveen Bansal, Resolution

⁹ Averments in para 16 at page 12 of the application

¹⁰ Averments in para 17 at pages 12 and 13 of the application

¹¹ Annexure A at page 4 of the supplementary affidavit affirmed on 24/02/2023

¹² Annexure B at pages 5 to 12 of the supplementary affidavit affirmed on 24/02/2023

¹³ Annexure C at pages 13 to 19 of the supplementary affidavit affirmed on 24/02/2023

Professional of the Corporate Debtor is hereby authorised for placing the decision of Committee of Creditors for liquidation of Corporate Debtor before Hon'ble National Company Law Tribunal, Kolkata Bench for their consideration to order for liquidation of Corporate Debtor."

14. The RP has given his written consent¹⁴ to act as Liquidator of the Corporate Debtor stating his eligibility to be appointed as Liquidator under the Code and Regulations.
15. Meanwhile the CIRP period has already ended 26/02/2022.
16. Section 33(1)(a) of the Code mandates that the Adjudicating Authority shall pass an order of liquidation where no resolution plan is received before the expiry of the CIRP. Sub-section (2) thereof requires the Adjudicating Authority to pass the liquidation order where the Resolution Professional intimates to the Adjudicating Authority the decision of the Committee of Creditors approved by not less than 66% of the voting share to liquidate the Corporate Debtor.
17. A conjoint reading of these two provisions leaves this Adjudicating Authority with no other option but to order liquidation of the Corporate Debtor.
18. This Bench, therefore, hereby orders as follows: -
 - a. IA(IBC)/231(KB)2022 filed by Mr. Parveen Bansal, RP of Silverton Spinners Limited, the Corporate Debtor, is allowed. Consequently, the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;
 - b. Though the RP has given his consent to act as the Liquidator of the Corporate Debtor but in view of the IBBI Circular no. Liq-12011/214/2023-IBBI/840 dated 18/07/2023 for appointment of Liquidator other than IRP/RP under section 34(4)(b) of the Code, we hereby appoint Mr. Pratap Mukherjee (Reg. No. IBBI/IPA -001/IP-P-02515/2021- 2022/13851.) having e-mail i.d. pratapmukherjee62@gmail.com, mobile no. 9433169214 as given at Sl.No 42

¹⁴ Annexure I at pages 219 to 221 of the application

of the Insolvency and Bankruptcy Board of India, Panel for July 1, 2023 to December 31, 2023 – Kolkata Bench, as Liquidator in terms of section 34(1) of the Code. His appointment shall be subject to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019. The Liquidator is directed to submit his consent to act as Liquidator within **10 days** of receipt of this order. The erstwhile RP shall handover all papers and documents in his possession concerning the Corporate Debtor to the Liquidator appointed in this matter within **10 days**.

c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, i.e., in “*Financial Express*” (English) and “*Ekdin*” (Bengali) stating that the Corporate Debtor is in liquidation.

e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.

f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

g. On initiation of the liquidation process but subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the Liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read

with its proviso.

h. In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.

i. In terms of section 33(1)(b)(iii) of the IBC, the Liquidator shall file a copy of this Order with the **Registrar of Companies, West Bengal**, within whose jurisdiction the Corporate Debtor is registered. Additionally, the **Registry** shall also forward a copy of this Order to the **Registrar of Companies, West Bengal**.

19. The application bearing **IA(IBC)/231(KB)2022** shall stand disposed of in accordance with the above directions.

20. **CP(IB)/522(KB)2018** is to come up for filing of Periodical Progress Report on **06/03/2024**.

IA(IBC)/947(KB)2022

21. This is an application filed by the Canara Bank, having 43.0% voting share in CoC, praying for appointment of Mr. Surya Kanta Satpathy as the Liquidator in replacement of the present Resolution Professional, Mr. Parveen Bansal while passing order of liquidation of the Corporate Debtor.

22. In view of the order above passed in IA(IBC)/231(KB)2022 of even date, appointing Mr. Pratap Mukherjee, as the Liquidator of Silverton Spinners Limited, in terms of the IBBI Circular no. Liq-12011/214/2023-IBBI/840 dated 18/07/2023 for appointment of Liquidator other than IRP/RP under section 34(4)(b) of the Code, IA(IBC)/947(KB)2022 has become **infructuous** and the same is dismissed as such.

23. The Registry is directed to send e-mail copies of the order forthwith to all the

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court II)

**IA(IBC)/231(KB)2022
& IA(IBC)/947(KB)2022
in CP(IB)/522(KB)2018**

parties and their Ld. Counsel for information and for taking necessary steps.

24. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Balraj Joshi
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Signed on this, the 25th day of January, 2024.

PJ.