

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

Before Shri Madan B. Gosavi, Hon'ble Member(Judicial)

I.A. 718/KB/2018 in C.P.(IB) No.482/KB/2017

IN THE MATTER OF:

An application for initiation of Corporate Insolvency Resolution Process by the Financial Creditor under Section 7 of the Insolvency and Bankruptcy Code, 2016;

-And-

IN THE MATTER OF:

ICICI Bank Limited having its Registered Office at ICICI Tower, Near Chakli Circle, Old Padra Road, Vadodara- 390 007, Gujarat, India and its Eastern Regional office at ICICI Bank House, 3A, Gurusaday Road, Kolkata- 700 019;

.. **Applicant/ Financial Creditor**

-Versus-

Eastern Gases Limited, having its registered office at 43, Palace Court, 1 Kyd Street, PS-Park Street, Kolkata, West Bengal- 700 016;

... **Corporate Debtor**

Counsels appeared:

- | | |
|---------------------------------------|-------------------------------|
| 1. Mr. Avishek Guha, Advocate |] For ICICI Bank |
| 2. Mr. Sk Shakrukh Raja, Advocate |] |
| 1. Mr. Kuldeep Verma |] Resolution Professional |
| 1. Mr. Rahul Auddy, Advocate |] For Resolution Professional |
| 1. Mr. Jatinder Singh Dhatt, Advocate |] For Resolution Applicant |

Date of Pronouncement of Order : 21.08.2018

ORDER

One of the Financial Creditors, ICICI Bank has filed application under section 7 of the Insolvency & Bankruptcy Code, 2016 (in short, I&B Code) against the Corporate Debtor, M/s.Eastern Gases Limited to start Corporate Insolvency Resolution Process (in short, CIRP) as the Corporate Debtor committed default in paying the debt of more than Rs.20 crores.

2. This authority, vide order dated 08.11.2017, admitted the application and started CIRP of the Corporate Debtor. One Mr. Kuldeep Verma was appointed as the IRP. Later on, his appointment as Resolution Professional (RP) was confirmed by the Committee of Creditors in meeting dated 18.12.2017.

3. On 21.02.2018, the RP made the public announcement of the CIRP of the Corporate Debtor and called for the Resolution Plan for resolution of insolvency of the Corporate Debtor. It appears from the record that for the first time on 28.06.2018, one Mr. S.K. Bhansali submitted Resolution Plan. The plan was submitted after CIRP period of 180 days, which will be completed on 08.05.2018 but before completing extended period of 270 days. The extended period of CIRP got over on 3rd August, 2018.

4. In CoC meeting dated 10.07.2018, the Resolution Plan of Mr. Bhansali was considered by the CoC. It was again considered in the meeting dated 01.08.2018. CoC rejected Mr. Bhansali's plan by 100% voting share. RP filed on record final progress report dated 02.08.2018.

5. Meantime, Mr, Bhansali filed application bearing IA(IB) No.718/KB/2018 requesting *inter alia*, that this authority may exclude from the consideration the period in between 06.05.2018 to 12.06.2018, which was spent in disposal of one of his application against one of the financial

creditors. Later on, that application was withdrawn. However, the application for exclusion of period i.e. IA(IB) No.718/KB/2018 was pending for consideration of this authority.

6. Although it is not necessary to consider the application for exclusion of time filed by Mr. Bhansali (IA(IB) No.718/KB/2018) as he is not entitled to file such application under section 12 of I&B Code and even under section 11 of I&B Code invoking the inherent powers of this authority, however, I hold that the application is not maintainable even on merits. As on today, there is no resolution plan pending before the CoC, whereby the Corporate Debtor can be saved from going into liquidation. Hence, it is of no use for this authority to allow such extension application invoking inherent powers under IBC. Hence, application in IA(IB) No.718/KB/18 stands rejected as disposed of.

7. Now coming back to CIRP, as on today, there is no resolution plan worth to be acceptable by the CoC. All the members of the CoC unanimously resolved that there is no way out but to request this authority to pass the order of liquidation of the Corporate Debtor in terms of section 33 of the IB Code. I accept the recommendation of the Committee of Creditors and proceed to pass an order requiring the Corporate Debtor to be liquidated in the manner as laid down in the Chapter III of Part II of I&B Code. I pass an order under section 33 of the I&B Code, 2016 to start process of liquidation of the Corporate Debtor upon the following orders:

ORDER

By this order, Corporate Debtor/Eastern Gases Ltd. is liquidated.

2. Mr. Kuldeep Verma is appointed as the Liquidator.

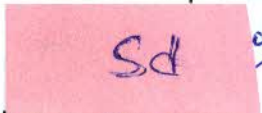
3. Mr. Kuldeep Verma is directed to issue Public Announcement stating that the corporate debtor is in liquidation, in terms of Regulation 12 of the IBBI(Liquidation Process) Regulations, 2016.
4. The Registry is directed to communicate this order to the Registrar of Companies, West Bengal and to the Insolvency and Bankruptcy Board of India (IBBI), New Delhi.
5. The Order of Moratorium passed under Section 14 of the I&B Code, 2016 shall cease to have effects and a fresh moratorium under Section 33 (5) shall commence.
6. This order is deemed to be a notice of discharge to the officers, employees and the workmen of the Corporate Debtor as per Section 33 (7) of I&B Code, 2016.
7. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of the Insolvency and Bankruptcy Code, 2016.
8. Upon proceeding with the liquidation the Liquidator shall file a **preliminary report** as per regulation 5 read with Reg.13 of the IBBI(Liquidation) Regulations, 2016 at the registry with in 75 days from the liquidation commencement date and continue to file **progress reports** as per Reg.15(1) with in 15 days after the end of the quarter in which he is appointed.
9. The fee payable to the Liquidator shall form part of the liquidation cost as provided under Reg. 4(1) of the IBBI (Liquidation Process) Regulations,2016.

Sd

10. IA(IB) No.718/KB/2018 is disposed off accordingly. However, no order as to cost.

Copy of this order is to be sent to the Liquidator, financial creditor and corporate debtor by Speed Post as well as by Email for information and for taking necessary steps.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.


(Madan B. Gosavi.)
Member(J)

Signed on this the <sup>8-
21</sup> day of August, 2018