

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI

PRINCIPAL BENCH

(IB)-103(PB)/2017

IN THE MATTER OF:

Vertex Chemicals And Mahaan Proteins Ltd.Petitioner

**SECTION : UNDER SECTION 7 of Insolvency and Bankruptcy Code,
2016**

Order delivered on 23.01.2018

Coram:

**CHIEF JUSTICE (Retd.) M.M.KUMAR
Hon'ble President**

**Sh. S.K. Mohapatra,
Hon'ble Member (T)**

For the Petitioner/Applicant : Mr. Arvind Garg, Resolution Professional

For the Income Tax Deptt. : Mr. Piyush Goyal, Adv. for Mr. Zoheb Hossain,
Sr. Standing Counsel for Revenue

ORDER

In pursuance of order dated 27.12.2017, memo of parties have been filed. A perusal of Memo of parties shows that Corporation Bank, SBER Bank, RBL Bank and Karur Vysya Bank are parties. All of them are members of the Committee of Creditors. With the consent of Mr. Arvind Garg and Mr. Goyal, the date is preponed and the matter has been heard. It is clarified that the period from 27.12.2017 shall be deemed to be extended till today.

The Insolvency & Bankruptcy petition for initiating Corporate Insolvency Resolution Process under Section 7 of the Code was admitted in the matter of Mahaan Proteins Ltd. on 26.06.2017. The IRP was appointed on 18.07.2017 and he invited claims on 28.07.2017 and also appointed two valuers for the valuation of the

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assets of the Corporate Debtor with the consent of the COC on 18.08.2017. In pursuance of notices issued inviting claims, a number of persons filed their claims which have been placed on record of the Paper Book dated 15.12.2017 (Diary No. 3214). The aggregate amount claimed by various claimants amounted to more than Rs. 83 crores. In pursuance of the meeting of the Committee of Creditors, the expressions of interest were floated on 04.10.2017 (pg. 107). The expression of interest was duly published in the Business Standard dated 04.10.2017 in Hindi as well as in the English Editions. However, no Resolution Plan-applicant came forward in the Fourth Meeting of COC dated 23.10.2017. In the Fourth meeting of the Committee of Creditors, the following views were expressed by the Creditors:

"Corporate Bank, SBER Bank and RBL Bank unanimously expressed grave concern about deterioration of assets of Corporate Debtor with the passage of time and opined that any delay in liquidation of Mahaan Proteins Ltd. even by a few weeks would be detrimental to their interest. They instructed the Resolution Professional to approach the Hon'ble National Company Law Tribunal with liquidation petition of the Corporate Debtor. They also informed the Resolution Professional that repeated attempts to improve the state of affairs of the Corporate Debtor were made through Joint Lenders Meetings prior to the filing of petition by the operational creditor without any worthwhile results. They also agreed to furnish information relating to earlier actions taken by them and reiterated that it was in the best interest of all

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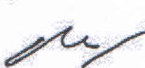
stakeholders that early efforts are made to liquidate the corporate debtor and realize asset value.

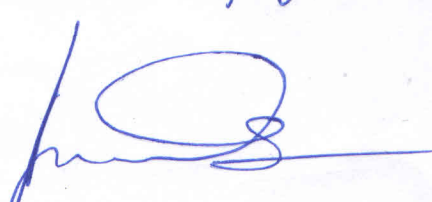
Corporation Bank, SBER Bank and RBL Bank informed the Resolution Professional that the present realizable value of the assets of Corporate Debtor is a fraction of value that could be realized earlier as the plant has been in shut down condition for almost nineteen months now and routine maintenance of building, plant and machinery has not been carried out for this period. They also emphasized that the assets have a limited useful life and with each passing day, the remaining life of the assets is reducing.

The recurrent cost of CIRP amounting to approximately Rs. 6 lakh per month including the electricity bill amounting to Rs.3.60 lakh per month approximately, was also a matter of serious concern, especially in view of meagre value of assets of the Corporate Debtor.

Corporation Bank, SBER Bank and RBL Bank stressed that in present circumstances, based on the information provided by the valuers, they are likely to incur substantial losses on the loans given by them. They again stressed on the need for expedient action.

Mr. Arvind Garg, Resolution Professional requested them to confirm their desire to initiate liquidation proceedings in writing and to confirm the minutes of the meeting immediately on receipt. He also requested them to furnish information related to earlier

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attempts to resolve issues, so that the information may be submitted to the Hon'ble NCLT to seek liquidation of the Corporate Debtor within the framework of Insolvency & Bankruptcy Code 2016 and regulations notified thereunder.

COC members agreed that the next COC meeting may be held at the short notice. Mr. Arvind Garg, Resolution professional agreed to initiate necessary steps, as desired by the COC within ten working days from the date of receipt of necessary information from the banks and confirmation of minutes by the COC members.

The meeting ended with an agreement to meet again in the First week of November 2017".

The aforesaid minutes were reiterated in the 5th meeting of Committee of Creditors held on 02.01.2018. The Committee of Creditors has unanimously approved to appoint Resolution Professional as Mr. Arvind Garg as Liquidator in the proposed liquidation of the Corporate Debtor.

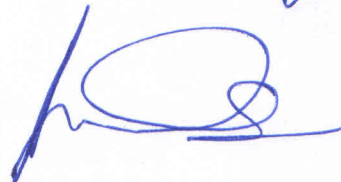
Mr. Piyush Goel, learned Counsel for the Income Tax Department has stated that there are pending demand of the income tax as a result of the finalisation of the assessment by the Assessing Officer. The same shall be placed before the Liquidator, who shall consider it in accordance with law.

Having heard the Resolution Professional and perusing the record with his assistance, we are of the view that since no Resolution Plan has been submitted by any one in response to

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expression of interest floated on 04.10.2017, it is not possible to adopt any other course except the one suggested and adopted by the Committee of Creditors in its Fourth meeting held on 23.10.2017 and again reiterated in the Fifth meeting held on 02.01.2018.

Accordingly, we approve the view taken by the COC and also approve the name of Mr. Arvind Garg to act as a Liquidator subject to all just exceptions. The Liquidator shall take all necessary steps in accordance with the provisions of the Insolvency & Bankruptcy Code, 2016 and file periodical reports as per the requirement of Regulations.

List the matter as and when reports are filed.

Sd/-

(CHIEF JUSTICE M.M.KUMAR)
PRESIDENT

Sd/-

(S.K. MOHAPATRA)
MEMBER(TECHNICAL)

23.01.2018
V.Sethi

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