

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

CP (IB) No.331/KB/2017

Coram: Shri Jinan K.R., Member (Judicial)

In the matter of:

An application under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

IN THE MATTER OF:

LAXMIVINAYAK RICE MILL PRIVATE LIMITED, having Corporate Identity Number U15490WB2011PTC166440, a company registered under the Companies Act, 1956 and having its registered office at 303, Gour Bangla Road Nagarthuba, Akrampur Habra, West Bengal 743263 in the state of West Bengal within the aforesaid jurisdiction.

And

IN THE MATTER OF:

RELIANCE COMMERCIAL FINANCE LIMITED, having Corporate Identity Number U66010MH2000PLC128301, a company registered under the Companies Act, 1956 and having its registered office at Reliance Centre, 6th Floor, South Wing, Off Western Express Highway, Santacruz (East), Mumbai 400 055 outside the jurisdiction aforesaid and a corporate office at A.C. Market, 6th Floor, 1, Shakespeare Sarani, Kolkata 700 071 within the jurisdiction aforesaid.

... **Applicant**

- **Versus** -

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LAXMIVINAYAK RICE MILL PRIVATE LIMITED, having Corporate Identity Number U15490WB2011PTC166440, a company registered under the

Companies Act, 1956 and having its registered office at 303, Gour Bangla Road Nagarthuba, Akrapur Habra, West Bengal 743263 in the state of West Bengal within the jurisdiction aforesaid.

.... **Corporate Debtor**

Counsel Appeared:

- | | |
|-------------------------------------|-------------------------------|
| 1. Mr. Arnab Basu Mullick, Advocate | - For Committee of Creditor |
| 2. Mr. Setu Das Roy, Advocate | - For Corporate Debtor |
| 3. Mr. Kanchan Dutta | - Resolution Professional |
| 4. Mr. Rahul Auddy, Advocate | - For Resolution Professional |

Date of pronouncing the order: 22.03.2018

ORDER

Per Shri Jinan K.R., Member (Judicial)

1. This is an application filed under Section 7 of Insolvency and Bankruptcy Code 2016 (in short, I&B Code) by Reliance Commercial Finance Limited / Financial Creditor for initiating Corporate Insolvency Resolution Process (CIRP) in respect of Corporate Debtor / Laxmivinayak Rice Mill Private Limited under Section 7 of the Insolvency and Bankruptcy Code 2016 (in short I&B Code). Vide order dated 19th September 2017 the application was admitted and one Mr. Kanchan Dutta was appointed as Insolvency Resolution Professional of Laxmivinayak Rice Mill Private Limited and upon receiving the appointment Mr. Kanchan Dutta initiated Corporate Insolvency Resolution Process (CIRP) against Laxmivinayak Rice Mill Private Limited. The period of CIRP expired on 17th March, 2018. Since the Resolution Professional failed in receiving any Resolution Plan and since Committee of Creditors (CoC) has taken a unanimous decision not to get extension of CIRP beyond 180 days,

the Resolution Professional filed the final reports dated 17th March, 2018 and it came up for consideration on 19.03.2018.

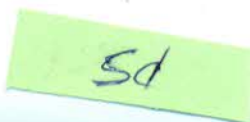
2. The Ld. Resolution Professional stated in the report that from the inception of CIRP, he could not get sufficient support and co-operation from the Corporate Debtor and despite repeated directions issued to the corporate debtor to co-operate with him in respect of submission of accounts as well as information so as to call for Expression of Interest, neither the Corporate Debtor nor its Directors inclined to provide the information as well as the account book and thereby he could not discharge his function as the Resolution Professional effectively.

3. He has convened altogether five meetings of the CoC. Despite non-co-operation and non-submission of books of accounts and records by the Corporate Debtor, he has appointed two valuers for valuation of the assets of the Corporate Debtor. Due to absence of list of assets, the registered valuers have specifically verified the assets available in the office, factory premises of the Corporate Debtor and prepared the liquidation value reports based on the same. The Resolution Professional further stated that for want of records, books of accounts, audited financial statements and other records, he could not prepare the Information Memorandum and invite prospective resolution applicants and thereby the CoC at the 5th meeting held on 6th March, 2018, unanimously taken a decision not to get extension of the time period Under Section 12 of the I&B Code. Upon the said decision the Resolution Professional submitted the report with the recommendation for liquidation of the Corporate Debtor and accordingly he filed the final reports.

4. Heard the Ld. Counsel for the Resolution Professional for CoC as well as Corporate Debtor and the Resolution Professional.

5. This is a case in which the Corporate debtor has been given directions under Section 19 of the I&B Code to submit necessary account books, records and Balance Sheets for enabling the resolution professional to prepare Information Memorandum . However, it failed in providing the required documents. The Ld. Counsel appearing on the side of the Corporate Debtor though made an assurance that Corporate Debtor would comply all directions nothing was done at the instances of corporate debtor. Because of the non-cooperation from the Corporate Debtor and insufficiency of information for preparation of Information Memorandum under Section 29 of the Code, the Resolution Professional in the case in hand could not continue the resolution process for finding out a resolution applicant who can take over the assets of the Corporate Debtor. The CoC in the meeting held on 6th March 2018 with 100% vote share took unanimous decision that the extension of CIRP duration under Section 12 of the I&B Code is not at all required and voted for liquidating the Corporate Debtor. Accordingly, this adjudicating authority has no other option other than to pass an order requiring the Corporate Debtor to be liquidated in the manner as laid down in Chapter III of Part II of I&B Code, 2016. Accordingly, I hereby pass an order requiring the Corporate Debtor to be liquidated upon the following directions:

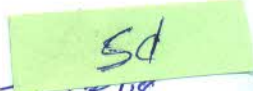
- (i) Shri Kanchan Dutta is appointed as the liquidator.
- (ii) Shri Kanchan Dutta is directed to issue public announcement that the Corporate Liquidator is a Liquidator in terms of Regulation 12 of Insolvency and Bankruptcy Regulation 2016.
- (iii) The Registry is directed to communicate this order to the Registrar of Companies, West Bengal and to the Insolvency and Bankruptcy Board of India (IBB), New Delhi.



- (iv) 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.
 - (v) 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.
 - (vi) 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.
6. Copy of this order be sent to the Liquidator for taking necessary steps.
7. All the pending C.As, if any, in the main C.P. is hereby closed.

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

List it on 05.06.2018 for filing report.


22/3/18
(Jinan K.R.)
Member (Judicial)

Signed on 22nd day of March 2018.

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