IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
PRINCIPAL BENCH

(IB)-156(PB)/2017

IN THE MATTER OF:
Reliance Commercial Finance Ltd. ....**Petitioner**
v.
Ved Celluse Ltd. ....**Respondent**

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

Order delivered on 14.05.2018

Coram:
CHIEF JUSTICE (RTD.) M.M. KUMAR
Hon'ble President

Sh. S. K. MOHAPATRA,
Hon'ble Member (Technical)

For the Applicant/petitioner : Mr. Rakesh Kumar, Ms. Chetna Bisht, Mr. Hetish Raj Singh, Mr. Sahil Gupta, Advs.
Mr. Sameer Rastogi, RP in person

ORDER

1. This is an application filed under Section 30(6) read with Section 31 of the Insolvency & Bankruptcy Code, 2016 by the Resolution Professional with a prayer for approval of the Resolution plan as accepted by the Committee of Creditors. A copy of the Resolution Plan has been placed on record (Annexure-18). It is pertinent to mention that CIR process in the present case was triggered on 30.06.2017 and thereafter various steps were taken. A perusal of the record shows that there is only one Financial Creditors namely, Bank of India and COC is comprised of one entity-Bank of India.

2. When the matter came up for consideration on 23.04.2018, we have passed an order asking the Resolution Professional to file a comprehensive certificate highlighting various steps contemplated and taken by him as per the legal requirements of the Insolvency &

Bankruptcy Code and the provisions of the Regulations stand complied with. In pursuance of the aforesaid order, a comprehensive certificate has been filed by the RP on 10.05.2018. In the certificate, the Resolution professional has stated that he had examined the Resolution Plan submitted by the Resolution applicant-Kalka Energy Pvt. Ltd. and that he found the Resolution Plan to be consistence with sub-clauses (a) to (f) of Section 30(2) of the Code. It has further been certified that the Resolution Plan confirm and verify that it provides for all mandatory contents and complies with sub-regulation (a) to (c) of Regulation 38 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (for brevity CIRP Regulations). It has further been certified that the Resolution Plan has dealt with the interests of every stakeholders, like, financial creditors, operational creditors of the corporate debtor as per the requirement of Regulation 38(1A) of the CIRP Regulations. The Resolution Professional has also certified that the plan provides for terms of the payment, implementation scheme, the management and control of the business of the corporate debtor during the term of the plan and adequate means for supervising its implementation.

3. In para-5, the Resolution Professional has also certified the following:

a) The Resolution Plan provides a sum of Rs. 1447 lakhs (14.47 crores) to be paid to Secured Financial Creditors, by the Resolution Applicant, in full and final settlement of their dues of Rs. 24.50 crores.

b) The Resolution Applicant/Corporate Debtor shall bear financial cost of Rs.1557.21 lakhs, out of the business cash flows, in due course of business as ongoing concern basis, towards liabilities.

c) Certain waivers have been sought such as statutory/tax liabilities, Operational Creditors barred by limitation as of date of commencement of CIRP.

d) Any collateral and/or primary securities and guarantee presently held by Financial Creditor/Bank of India will be released only after complete payment of the offer amount (Rs.14.47 Crores) by the Resolution Applicant.

e) The workmen and employees (more than 200 directly and indirectly connected with the Corporate Debtor) are not affected and continue to be employed as earlier.

f) The Resolution Plan envisages the continuation of the Corporate Debtor as a "going concern".

4. With regard to the Resolution Applicant, the Resolution Professional has submitted that he does not suffer from any disability in terms of Section 29A of the Code and that the Resolution plan has been duly approved by the Committee of Creditors in the 9th meeting held on 27.03.2018 by 100% vote sharing.

5. The Resolution Professional has also certified that the plan provides for payment of insolvency resolution process costs in accordance with the Regulation and priority envisaged therein. In that regard, reference has been made to Regulation 38(1)(a) of the CIR Regulations. The source of payment of CIRP cost has been identified

and the payment is to be made on priority basis to any other payment under the Resolution plan or any other creditor. The Resolution professional has been proposed as a monitoring agency.

6. It has also been certified that the Resolution Plan does not contravene any provisions of the law for the time being in force.

7. The Resolution Professional further states that he has closely studied the books of accounts and other relevant records to observe and determine following types of transactions:

a) Preferential transactions under Section 43 of IBC, 2016.
b) Undervalued transactions under Section 45 of IBC, 2016.
c) Extortionate credit transactions under Section 50 of IBC, 2016.
d) Fraudulent transactions under Section 66 of IBC, 2016.

8. In view of the aforesaid examination, the Resolution professional has not found any such transaction which need to be dealt with differently. An omnibus statement has also been made that the Resolution Plan was submitted to the Committee of Creditors which complies with the requirements of the Code, Regulations made thereunder and even the amendments made in the Code and Regulations. A certificate with regard to confidentiality of the information relating to the CIR process, liquidation or bankruptcy process has also been filed at all times.

9. On our asking Mr. Rakesh Kumar, learned Counsel for the Resolution Professional has stated that as per the Resolution, no

workers due have been reported and has further made a statement on behalf of the Resolution applicant that if any workers dues are found, the same are to be honoured by the Resolution applicant. The workers interest will be protected as per the stipulation in the Resolution plan by continuing more than 200 workmen and employees who are not affected by the resolution plan. It has also been stated that out of the total recoverable amount of Rs. 24.50 crores, the Financial Creditor is likely to secure 14.47 crores which amounts to recovery of more than 55%.

10. Having heard the learned Counsel, we find that there is no objector to oppose the approval of the plan as accepted by the COC in its meeting held on 27.03.2018. We also find that the comprehensive certificate filed by the Resolution professional meets the requirement of the Code and CIRP Regulations. Therefore, we approve the plan and accept the appointment of Resolution Professional to act as the monitoring agency. The monitoring agency shall have all powers to facilitate the implementation of resolution plan as approved by us. He would also be entitled to file any application, if so required, during the implementation of the Resolution plan. The matter may also be brought to the notice of the sole Financial Creditor-COC-Bank of India.

11. Application stands disposed of.

-Sd/-

(M.M.KUMAR)
PRESIDENT

-Sd/-

(S.K. MOHAPATRA)
MEMBER(TECHNICAL)

V.Sethi