IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

Before Shri M.B. Gosavi, Hon'ble Member(J)

Company Petition (IB) No.158/KB/2018

In the Matter of:
Section 7 of the Insolvency & Bankruptcy Code, 2016 read with Rule 4 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

-And-

In the Matter of:
Laxmi Glasslands Private Limited, having its registered office at 11, Jatinra Mohan Avenue, Kolkata- 700 006;

... **Financial Creditor/ Applicant**

-Versus-

In the Matter of:
Venky Hi-Tech Ispat Ltd., having its registered office at Diamond Chamber, Block-II, Unit-7J, 4, Chowringhee Lane, Kolkata-700016;

... **Corporate Debtor**

Counsels appeared:

Mr. Jitendra Lohia, Resolution Professional

Date of Pronouncing the Order: 08.01.2019

ORDER

The Financial Creditor - M/s. Laxmi Glasslands Pvt. Limited has filed the application under section 7 of Insolvency & Bankruptcy Code, 2016 (in short, I&B Code) to start Corporation Insolvency Resolution Process (in short, CIRP) of the Corporate Debtor - M/s. Venky Hi-Tech Ispat Limited as the Corporate Debtor was unable to pay the debt more than Rs.25 crores given as a corporate loan.

2. By order dated 08.05.2018, this Adjudicating Authority admitted the application to start CIRP of the Corporate Debtor. One Mr. Jitendra Lohia was appointed as the I.R.P. Moratorium under section 14 of I&B Code was issued.

3. The IRP took charge of the affairs of the Corporate Debtor. On 12.05.2018, he made public announcement of CIRP of the Corporate Debtor publishing notice in Financial Express and Sukhobar (in bengali newspaper) calling upon the creditors of the corporate debtor to submit their claims with proof on or before 22.05.2018.

4. It appears from record that IRP received claims from two financial creditors and nine operational creditors. He formed the CoC consisting of State Bank of India having 99.43% voting share and Laxmi Glasslands Private Ltd. (the applicant) having 0.57% voting share.

5. CoC held its first meeting on 06.06.2018. CoC unanimously confirmed the appointmet of IRP as the RP. Accordingly, this authority by order dated 13.06.2018 approved his appointment.

6. RP appointed two valuers and got valuation report of the assets of he Corporate Debtor. Liquidation value of the assets was fixed at Rs.8,79,60,769.50 and fair market value was assessed as Rs.11,92,73,310/-. The RP published notice of invitation. EoI and Resolution plan in English daily "Financial Express" and "Sukhobar" (in Bengali) dated 27.07.2018 calling upon the prospective resolution applicants to submit EoI

and plan on or before 12.09.2018. In pursuant thereto, he received two resolution plans, one from M/s. Gliana Tradecom LLP and another from M/s. Westwell Iron & Steel Private Ltd. Both the resolution plans were submitted to the CoC for consideration. CoC approved resolution plan submitted by M/s. Gliana Tradecom LLP and declared to be H-1 bidder. However, CoC directed H1 resolution applicant to revise the plan without changing the amount. Accordingly, H1 bidder submitted the revised plan but by that time, CIRP period of 180 days was over. Hence, CoC instructed the RP to make application under section 12(2) of I&B Code before this authority for extension of CIRP period of 90 days more. Accordingly, CIRP period was extended.

7. CoC in its last meeting dated 31.12.2018 approved the resolution plan of M/s. Gliana Tradecom LLP. The RP submitted that resolution plan before this authority for approval with final report dated 01.01.2019.

8. I have gone through the resolution plan submitted for my approval. I heard the Ld. RP in person.

9. Section 31 of I&B Code, 2016 requires this authority to approve the resolution plan after it is approved by the CoC as per sub-section (4) of section 30 of I&B Code and if the same meets the requirements stated in sub-section (2) of section 30 of I&B Code. In the light of above provisions, I examined the Resolution Plan, that is submitted for my approval. I find that the CoC has considered the fact that the resolution applicant is not disqualified person within the meaning of section 29A of the I&B Code. Sub-section (2) of section 30 of I&B code requires that resolution plan to meet the following requirements:

a) it provides for the payment of insolvency resolution process cost process and

b) it provides for the payment of the debts of operational creditors subject to provisions of section 53 of I&B code;

c) it provides for the management of the affairs of the Corporate Debtor after approval of the plan;

d) it provides for the mechanism of implementation and supervision of the resolution plan;

e) it does not contravene any of the provisions of law; and

f) it fulfills all other requirements as specified by the Board.

10. In the resolution plan submitted for my approval, I find that bid amount is Rs.1231.56 lakhs. It exceeds the liquidation value as well as fair market value of the assets of the Corporate Debtor. The bid amount is exclusive of payment for insolvency resolution cost of Rs.29 lakhs. Provision for Rs.23.05 lakhs is made for payment of workmen and employees. The provision for Rs.88.53 lakhs is made for the payment of debts of other operational creditors. The Plan has provided the mechanism and the management of the business affairs of the Corporate Debtor after the approval of the plan (Para C-11). In para C-12 of the plan, mechanism is provided for managing and supervision of implementation of the plan. I find that the plan does not contravene any of the provisions of law at the time being in force. It complies all requirements as specified by the Board. Since the Resolution Plan submitted for my approval is in compliance of provisions of section 30 of I & B Code and the Resolution Professional has certified that the plan meets all requirements of the Code and the Regulations as contemplated in the Regulation 37, I am satisfied that the resolution plan of M/s. Gliana Tradecom LLP for M/s. Venky Hi-Tech Ispat Limited as approved by the CoC under sub-section (4) of section 30 of Insolvency & Bankruptcy Code meets all requirements and provisions of law

stated under sub-section (2) of section 30 of I&B Code. Hence, I approve the same and I proceed to pass the following order:

ORDER

The Resolution Plan of M/s.Gliana Tradecom LLP for M/s.Venky Hi-Tech Ispat Ltd.-Corporate Debtor, which is approved by the CoC with 100% voting percentage, is hereby approved under provisions of section 31(1) of the Insolvency & Bankruptcy Code, 2016, which will be binding on the Corporate Debtor, its employees, members, creditors, coordinators and other stakeholders involved in the Resolution Plan.

2. The revival plan of the company in accordance with approved Resolution Plan shall come into force with immediate effect.

3. The moratorium order passed under Section 14 shall cease to have effect.

4. The Resolution Professional shall forward all records relating to the conduct of the Corporate Insolvency Resolution Process and the Resolution Plan to the Insolvency and Bankruptcy Board of India to be recorded on its database.

5. Before parting with, it appears to me that I have to endorse my appreciation to the work rendered by the Resolution Professional, Mr. Jitendra Lohia for seeing that the Resolution Plan is approved by the CoC so as to give a rebirth to the dying company.

6. Accordingly, C.P.(I.B.) No.158/KB/2018 in this context is disposed off.

Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

Sd/-
(Madan B. Gosavi)
Member (J)

Signed on this, the 8th January, 2019