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

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

**CP (IB) No. 166/KB/2018**

**In the matter of:**
An application under section 30(6) read with section 31 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 39(4) of the Insolvency & Bankruptcy Code, 2016 Read with Regulation 39(4) of The Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016;

-And-

**In the matter of:**

**M/s. Shakambari Overseas Trades Private Limited,** having its registered office at 113/1B, Chittaranjan Avenue, 7th floor, Flat No.7C, Kolkata- 700 073;

... **Applicant/ Operational Creditor**

-Versus-

**In the matter of:**

**M/s. Darjeeling Rolling Mills Private Limited**, having its office near Kishore Sangha, Burdawan Road, Siliguri- 734 005;

.... **Respondent/Corporate Debtor**

-And-

**In the matter of**:

**Sri Raj Singhania**, son of Lt. Jay Prakash Singhania, residing at P-777, Lake town, Kolkata- 700089, Resolution Professional, having his office at Central Plaza, 5th floor, Room No.5A, 41, B.B. Ganguly Street, Kolkata- 700 012;

...**Applicant/ Resolution Professional**

**Counsel appeared:**

1. Mr. Raj Singhania ] R.P.

**ORDER (Amended)**

This Tribunal delivered its judgment in the above-captioned case vide Order dated 01.03.2019. On 4th January, 2019, the Ld. RP mentioned about one mistake in the name mentioned in para 5 at page 5 of the Order regarding the RP's name.

Accordingly, under Rule 154(1) of the National Company Law Tribunal Rules, 2016, I am hereby replacing the para 5 at page 45 of the Order dated 1st March, 2019 as follows :

> **5.** "Before parting with, it appears to me that we have to endorse my appreciation to the work rendered by the Resolution Professional, Mr. Raj Singhania for seeing that the Resolution Plan is approved by the CoC so as to give a rebirth to the dying company."

Other contents of the Order of this Tribunal dated 1st March, 2019 will remain the same.

Registry is hereby directed to communicate the order to the Financial Creditor, Corporate Debtor and to the Interim Resolution Professional by Speed Post and also by email.

Let the certified copy of the order be issued upon compliance with requisite formalities.

Sd/ 4/3/2019

(Madan B. Gosavi)
Member(J)

Signed on this, the 4th day of March, 2019.

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...**Applicant/ Resolution Professional**

**Counsel appeared:**

1. Mr. Raj Singhania ] R.P.

**Date of Pronouncement of Order: 01.03.2019**

## ORDER

**M/s. Shakambari Overseas Trades Private Limited** - the Financial Creditor has filed this application under section 9 of the Insolvency & Bankruptcy Code, 2016 (in short, I&B Code) against **M/s. Darjeeling Rolling Mills Private Limited-** the Corporate Debtor to start Corporate Insolvency Resolution Process (in short, "CIRP") of the Corporate Debtor as the Corporate Debtor committed default in paying the operational debt of Rs. 44,26,465/-.

2. One Mr. Raj Singhania was appointed as the IRP. On 31.08.2018, IRP made public announcement of CIRP of the Corporate Debtor publishing notice in "Financial Express" (English) and the "Dainik Statesman" (Bengali). He called upon the creditors of the corporate debtor to submit their claims with proof. Only UCO Bank - the Financial Creditor submitted its claim. The IRP constituted the Committee of Creditors (in short, the CoC) consisting of one financial creditor, i.e. UCO Bank having 100% voting share.

3. In its first meeting held on 24.09.2018, the CoC confirmed the appointment of IRP as the RP. The RP appointed the Valuer, who assessed the liquidation value as well as market value of the assets of the corporate debtor. He prepared information memorandum. On 11.11.2018, the RP published the notice of invitation calling upon EoI/ Resolution Plan from the proposed resolution applicants. The proposed Resolution Applicants were called upon to submit the resolution plan on or before 09.02.2019. In pursuant thereto, CoC

received one resolution plan jointly filed by (i) Md. Shamim Akhtar and (ii) Mr. Sharif Quamar. Out of them, Md. Shamim Akhtar was the Promoter and Director of the corporate debtor since June, 2008. However, he is not disqualified under any of the clauses of section 29A of I&B Code. Moreover, total turnover of the corporate debtor appears to be less than Rs.5 crores per annum. Corporate Debtor is a small enterprise. Hence, in view of provisions of section 240A of I&B Code, provisions of section 29A of I&B Code are not applicable herein.

4. The resolution plan is approved by CoC by 100% voting share in its meeting dated 11.02.2019. The RP submitted the same resolution plan for approval of this authority as per section 30(6) of I&B Code.

5. Section 31(1) of I&B Code requires this authority to approve the resolution plan, as approved by the CoC, as per section 30(4) of the I&B Code, provided the plan meets all requirements as defined under sub-section (2) of section 30 of I&B Code.

6. Section 30(2) of I&B Code states that RP to submit resolution plan approved by the CoC and the Adjudicating Authority to approve the same if the plan confirms that (a) the plan provides the payment of insolvency resolution cost, (b) it provides for payment of debt of operational creditors subject to provision of section 53 of I&B Code, (c) the plan provides the management of affairs of the corporate debtor after approval of plan by this authority, (d) it provides mechanism for supervision of effective implementation of the plan, (e) it does not contravene any provisions of law and (f) it conforms other requirements as specified by the Board. Keeping before my sight above provisions of law, I have gone through the resolution plan submitted for my approval.

7. It is seen that Part-VI of the plan gives summary for payment of CIRP cost of Rs.14 lakhs approximately. It is clear from the perusal of record and the proceeding of this case that there are no operational creditors. Hence, nothing has been provided towards payment of debt of operational creditor. Part-X of the plan porovides the management and control of the business of the corporate debtor, after approval of the plan, vis-a-vis its effective implementation and supervision. I find that the plan does not contravene any provisions of law for the time being in force. The plan meets all other requirements as specified by the Board.

8. One of the joint resolution applicants produced on record affidavit dated 10.01.2019 affirming the fact that the resolution applicant is not disqualified under the provisions of section 29A of IBC. The Resolution Professional filed on record a compliance certificate in form-H as contemplated under Regulation 39(4) of IBBI (Insolvency Resolution Process for the Corporate Persons) Regulation 2016.

9. Upon perusal of the Resolution Plan submitted for my approval, I hold that there is no legal impediment for me to approve this resolution plan of Md. Shamim Akhtar, which is also approved by the CoC by 100% voting share under sub-section (4) of section 30 of I&B Code, which meets all requirements as stated under sub-section (2) of section 30 of I&B Code. I hereby approve the same resolution plan and proceed to pass the following order:

## ORDER

The Resolution Plan of Md. Shamim Akhtar, which is approved by the CoC with a 100% voting share 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 subject to payment of government dues and taxes.

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 we have to endorse my appreciation to the work rendered by the Resolution Professional, Mr. Arun Kumar Gupta, FCA for seeing that the Resolution Plan is approved by the CoC so as to give a rebirth to the dying company.

Accordingly, CP(I.B.) 166/KB/2018 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 1st day of March, 2019.*