

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

MA 04/2019
In
C.P. 382/I&BP/NCLT/MAH/2018

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

In the matter of
Edelweiss Asset Reconstruction
Company Limited,
Edelweiss House, Off CST Road,
Kalina, Mumbai 400 098.

...Financial Creditor

Vs.

RTIL Limited
Marathon Innova IT Park, B2/ 501 &
C- 501, 5th Floor, Off. G.K. Marg,
Lower Parel (West), Mumbai -
400103.

...Corporate Debtor

M.A. No. 04/2019

Venkatesan Sankaranarayanan.

Resolution Professional

...Applicant

Order delivered on: 05.02.2019

Coram: Hon'ble Bhaskara Pantula Mohan, Member (J)

Hon'ble V. Nallasenapathy, Member (T)

For the Applicant: Mr. Rahul Dev i/b Argus Partner,
Mr. Animesh Bisht, Ms. Saloni Kapadia i/b Cyril Amarchand Mangaldas,
Advocate for Resolution Professional,
Ms. Karishma Rao, For applicant in MA 1564/2018.

Per: V. Nallasenapathy, Member (Technical)

ORDER

1. The Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor by an order dated 10.04.2018 of this Adjudicating Authority on a section 7 Petition filed by the Financial Creditor, Edelweiss Asset Reconstruction Pvt. Ltd., wherein Mr. Venkatesan Sankaranarayanan, was appointed as Interim Resolution Professional and thereafter confirmed by the Committee of Creditors (CoC) as Resolution Professional (RP).
2. The RP submits that the public announcement for inviting claims from Creditors was issued on 20.04.2018, fixing 03.05.2018 as a last date for submission of claims and subsequently the IRP has constituted the CoC. On 24.05.2018, two valuers were appointed for valuing the assets of the Corporate Debtor and subsequently the Valuation Reports dated 07.09.2018 and 24.09.2018 were also submitted to the CoC. On 31.05.2018, the RP made a print publication in Business Standard and the Financial Express, PAN India editions, calling for expression of interest (EOI) from prospective resolution applicants, which should be submitted on or before 30.06.2018. The applicant submits that 11 EOI's were received and 7 had signed the Non Disclosure Agreement (NDA) and the Prospective Resolution Applicants were provided access to Information Memorandum, Process Memorandum as well as Virtual Data Room (VDR). Further the applicant issued Form G and fixed the last date for the submission of resolution plans as 19.08.2018. On 14.08.2018, the applicant issued another revised Form G as no resolution plans were received till the previous due date for submission of resolution plan, and the last date for submission of resolution plan was extended up to 06.09.2018. The applicant further submits that the CIRP period was extended by 90 days by an order of this Bench dated 03.10.2018.
3. On 08.09.2018, a revised Form G was issued by the applicant extending the last date for submission of resolution plan up to 04.10.2018.
4. Even after extending the last date several times no resolution plan was received even though 3 PRA's continue to show interest in submission of the resolution plan and the subject was discussed in the 4th CoC meeting held on 09.10.2018, and the CoC approved fresh evaluation

matrix and Form G and then the last date for submission of resolution plans was extended up to 15.11.2018.

5. The applicant submits that all the PRA's excluding Silver Point Luxembourg Platform S.A.R.L. (Silver Point), orally conveyed to the applicant, that they would not be submitting resolution plans, which was informed to the CoC in 5th meeting held on 22.11.2018. Accordingly, the applicant informed the CoC that access to VDR had been revoked to all other than Silver Point after the expiry of the deadline for submitting the resolution plan i.e. 15.11.2018. The representatives of Silver Point visited the factory in Mysore on 12.11.2018 and requested the applicant to extend the deadline for submission of resolution plan and accordingly a revised Form-G was issued on 27.11.2018 extending the time for submitting a resolution plan up to 03.12.2018. Once again the last date for submission of resolution plan was extended up to 03.12.2018 by issuing revised Form G.
6. The Applicant submits that thirteen parties have submitted EOIs out of which 9 parties have signed NDs and accessed documents in the VDR, only 2 parties had visited the factory premises and had discussion with the Resolution Professional and his team. However, no resolution plan was received from any quarter which was informed to the COC and the COC in the meeting held on 13.12.2018 decided to liquidate the Company and the Resolution was put for voting on 14.12.2018 which was approved by 67.58% of voting. Accordingly, the Resolution Professional filed this Application seeking the order of liquidating the Corporate Debtor and to appoint one Mr. Ravi Sankar Devarakonda having IP Registration No. IBBI/IPA-001/IP-P00095/2017-18/10195 as a liquidator. The CoC in its meeting held on 18.12.2018 decided to appoint Mr. Ravi Shankar Devarakonda as the proposed liquidator with 86.37% of voting in CoC and the said person has filed his written consent to act as a liquidator.
7. When the liquidation application was about to be taken up for hearing, on 20.12.2018, an unregistered Employees Association of Reid & Taylor (India) Ltd. filed an application i.e. MA 1565/2018, saying that, they have an investor (SPGP Holdings of Hongkong) who can submit a resolution plan for Corporate Debtor. In view of the fact that resolution

is the main aim of IBC and when somebody is there to invest in the Company, an opportunity was given to the Employees Association to bring in the said investor but subsequently he has backed out even after taking sufficient time to submit the documents and to prove his networth. Thereafter, the said association brought another person Mr. Shah, a representative of CFM Asset Reconstruction Pvt. Ltd. before this Bench and submitted that his net-worth is more than Rs. 100 Crores and he is interested for the investment in Corporate Debtor, however he has also backed out after making tall claims and wasting the time of the Bench. Subsequently, one more person Mr. Rinav Manseta, said to be a representative from Indian Gas Limited was brought by the said association but the said company failed to prove its basic requirement of net worth and hence this Bench could not entertain the third investor for the reason, he failed to appear before NCLAT and prove his bonafides but produced unauthenticated documents which did not proved his networth. In view of the above the said application No. 1565/2018 was dismissed.

8. On hearing the submissions of the Applicant and on reading the Application and the documents enclosed therein, as the RP has complied with the procedure laid under the Code read with Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (Regulations), for the valuation report filed by the valuer has not been disputed by the CoC, on verification, we are of the view that this case is fit for passing liquidation order under sub-section 1 of section 33 of the Code as no resolution plan has been submitted before the Adjudicating Authority by the Resolution Professional, and accordingly, this Bench orders;

- a. that the Corporate Debtor be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC, the jurisdiction under which this Company has been registered.
- b. that Mr. Ravi Shankar Devarakonda is hereby appointed as Liquidator as provided under Section 34(1) of the Code.
- c. all the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter

ceased to exist. All these powers henceforth vest with the Liquidator.

- d. that the personnel of the Corporate Debtor are hereby directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- e. that the Liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by the IBBI and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.
- f. that on having liquidation process initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the corporate debtor with prior approval of this Adjudicating Authority.
- g. This liquidation order shall be deemed to be notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.

9. Consequently, all the powers of the board of directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested in the liquidator.
10. Accordingly, this Misc. Application is hereby allowed directing the Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

Sd/-
V. Nallasenapathy
Member (Technical)

sd/-
Bhaskara Pantula Mohan
Member (Judicial)