

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
PRINCIPAL BENCH

ITEM No. 134
(IB)-202(PB)/2017

IN THE MATTER OF:

Punjab National Bank

.... Applicant/petitioner

Vs.

Bhushan Power and Steel Ltd.

.... Respondent

Order under Section 7 of Insolvency & Bankruptcy Code, 2016

Order delivered on 29.03.2019

Coram:

CHIEF JUSTICE (RTD.) M. M. KUMAR
HON'BLE PRESIDENT

SH. S. K. MOHAPATRA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant:

Mr. Amit Singh Chaddha, Sr. Adv. with Srishti G., Adv. and Ms. Kiran Sharma, CS in CA No. 437/19.

Mr. Amit Kr. Bhattacharya, Adv. in CA-1008, 1009, 1010 & 1011/2018 (Intervenor).

Mr. Monish Panda, Adv. in CA-729/18.

Mr. Abhinav Vasisht, Sr. Advocate with Mr. Shantanu Chaturvedi, Ms. Charu Bansal, Adv. for RP

Mr. Ramji Srinivasan, Mr. Bishwajit Dubey, Mr. Spandan Biswal, Ms. Srideepa Bhattacharya, Mr. Aditya Marwah, Ms. Sylona Mohapatra, Adv. for CoC
Dr. U.K Chaudhary, Sr. Adv. with Mr. Dhruv Gupta, Adv. for Ex. Directors.

Mr. A.S Chandioke, Ms. Sweta Kakkad, Ms. Aditi Mohapatra, Ms. Priya Agarwal, Mr. Arvind Kumar, Ms. Henna George, Adv. for promoters

Mr. Virender Ganda, Sr. Adv. with Mr. Nikhil Palli, Mr. Ayandeb Mitra, Adv. in CA-287/19

Mr. Arun Kathpalia, Sr. Adv. with Mr. Manmeet Singh, Ms. Anjalai Anchayil, Ms. Bani Brar, Mr. Siddharth Nath, Adv. in CA-254/19.(JSW Stell Ltd.)

Ms. Srishti Kapoor, Adv. in CA-537/2018

Mr. Nikhil Palli, Adv. in CA-287, 288, 289 of 2019.

Mr. Jishnu Chowdhary, Mr. Siddharth Sharma, Mr. Arjun Asthana, Ms. Sreenita Ghosh, Adv. in CA-1008/2018.

Mr. Sanjay Bhatt, Ms. Niharika Sharma, in CA-537, 1355/18.(EBNER Industries.)

Mr. Ramesh Chandra, Mr. Anirudh Pandey, Mr.

Amithabh, Mr. Aditya P. Pandey, Adv. in CA-1116/18.

Mr. Ashish Rana, Mr. Pronoy Choudhary, Mr. Sahil Dhawan, Mr. Suresh Baxy, Mr. Anurag Kr. Singh, Adv. in CA-935/2018.

Mr. Manu Beri, Adv. in CA-1247/18.
Mr. Amitabh, CS with Mr. Anirudh Kr. Pandey, Mr.
Abhinaw Kumar, Advs. in CA -1116/18.
Mr. Amir Kallem, Ms. Shweta Kapoor, Advs. for Shell
India Ltd.

ORDER

When the matter came up for hearing yesterday, we have passed the following order:-

“Mr. U. K. Chaudhary and other learned counsel have placed reliance on the judgment of the Supreme Court in the case of Vijay Kumar Jain Vs Standard Chartered Bank & Ors. (civil appeal no. 8430 of 2018) decided on 31.01.2019.

On behalf of the erstwhile promoters and Operational Creditors it has been argued that the copy of the Resolution Plan has not been furnished at any stage, and at least a copy of the resolution plan be furnished at this stage without prejudice to their right with regard to the non-supply at the earlier stages.

Before resuming argument today, we put it to learned counsel for the Resolution Professional and Committee of Creditors whether at this stage they would be prepared to furnish a copy of the Resolution plan to the OCs and the erstwhile promoters. Learned counsel for the RP as well as for the Committee of Creditors have requested for a day's time.

List on 29th March 2019.”

2. Mr. Srinivasan, learned senior counsel for the CoC after obtaining instruction from Ms. Srideepa, has stated that a copy of the resolution plan shall be handed over to the erstwhile promoter and the court appointed representative of the operational creditor in good-faith so that hearing may be concluded in a time bound

manner. It has also been stated that the resolution plan is not required to be furnished to the operational creditor who do not cross the threshold of 10 % and therefore, copy shall be given only to the court appointed representative namely Mr. A.S Chadha, learned senior counsel for operational creditor. It is needless to say that furnishing of the resolution plan is not to constitute any admission on the part of the CoC. The approval of the plan by the CoC was in a manner complied with the law existing on the date of approval and it shall not give rise to any future claim/objections from any other stakeholder on the ground that they were not provided a copy of the resolution plan.

3. However. Mr. Rajiv Nayyar, learned senior counsel for the successful resolution plan applicant has stated that it would not be possible to share the proprietary information which constitutes a separate part of the resolution plan.

4. Having heard learned counsels, we are of the view that a copy of the resolution plan shall be handed over to the erstwhile promoters and the court appointed representative of the Operational creditor namely Mr. A.S Chadha and Mr. Sumant Batra as agreed by the learned counsel for the RP, CoC and learned counsel for the resolution plan applicant. It is made clear that the furnishing of resolution plan would not foreclose the rights of the erstwhile



promoters or the operational creditor to raise any challenge before any forum in accordance with law.

5. We expect the learned counsels for the parties to peruse the resolution plan and address arguments on that basis in addition to other arguments.

6. The matter shall be heard on 01.04.2019.

Sd—

(M.M.KUMAR)
PRESIDENT

Sd—

(S. K. MOHAPATRA)
MEMBER (TECHNICAL)

29.03.2019
Aarti Makker