

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, BENCH-II

C.A. 1562/C-II/ND/2019
IN
Company Petition No. (IB)-1120(ND)/2018

IN THE MATTER OF :

Corporation Bank

...Financial Creditor

Versus

M/s Clover Forging and Machining Pvt. Ltd.

...Corporate Debtor

AND IN THE MATTER OF :

Rohit Mehra

Tower A 3403, Oberoi Woods

Oberoi Garden City, Goregaon East

Mumbai, Maharashtra – 400063 ...Resolution Professional/Applicant

Order Delivered on: 02.01.2020

Section: 33(1)(a) and 33(2) of the IBC, 2016.

CORAM:

SMT. INA MALHOTRA, HON'BLE MEMBER (J)

SHRI. L. N. GUPTA, HON'BLE MEMBER (T)

PRESENT:

For the Applicant : Mr. Tine Abraham, Mr. Akshay Puri, Advocates

For the Respondent : None



Page 1 of 6

ORDER

PER SHRI L. N. GUPTA, MEMBER (T)

This is an application filed by Sh. Rohit Mehra, the Resolution Professional of M/s. Clover Forging and Machining Private Limited under Sections 33(1)(a) and 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for seeking following reliefs :

- "(a) Pass an order to initiate the process of liquidation for the Corporate Debtor; and*
- (b) Pass any order(s) as this Hon'ble Tribunal may deem fit."*

2. Facts of the case in brief are that the Financial Creditor, Corporation Bank filed an application bearing No. IB-1120/(ND)/2018 under Section 7 of the Code for initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor, M/s. Clover Forging and Machining Private Limited. The said application was admitted by this Tribunal vide Order dated 04.12.2018 and Mr. Rohit Mehra was appointed as Interim Resolution Professional (IRP).

3. In terms of the Regulation 6(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the said Interim Resolution Professional made a public announcement in Form-A on 09.12.2018. The Public



announcement was also uploaded on the website of Insolvency and Bankruptcy Board of India (IBBI).

4. The Interim Resolution Professional constituted a Committee of Creditors (CoC), which comprised of the State Bank of India, Dena Bank (now Bank of Baroda), Andhra Bank, Indian Overseas Bank, Corporation Bank and Indian Bank.

5. The IRP Sh. Rohit Mehra was confirmed as Resolution Professional (RP) of the Corporate Debtor vide Order dated 18.01.2019 passed by this Tribunal.

6. It is submitted by the Ld. RP in his application that :

“3 In accordance with the timelines prescribed under the IBC and the Insolvency and bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016 (CIRP Regulations), the resolution professional issued an invitation for expression of interest (EOI) from prospective resolution applicants and only four EOIs were received before the extended deadline for the expression of interest (31 March 2019). Pursuant to that, Applicant also released a request for submission of resolution plans to the eligible resolution applicants before 5 May 2019.”



7. It is added by the RP that no Resolution Plan was received within the deadline. It is added by the RP that he had issued an amended Form-G, in response to which one entity namely, Deccan Value Investors LP (DVI), expressed interest and thereafter one offer was received.

8. It is further stated by the RP that the offer was not considered by the CoC as the 'offer' valuing Rs.39 Crore was lower than the Liquidation value of the Corporate Debtor which is Rs.47 Crore. Further, the offer was not compliant with the requirements set out in the code. Therefore, the CoC Meetings held on 13.11.2019 followed by E-voting on 29.11.2019 decided to liquidate the Corporate Debtor and appoint the Applicant as the Liquidator.

9. That the RP has further placed the results of E-voting held on 29.11.2019 for "*Filing an application for commencement of Liquidation*" by way of an additional Affidavit dated 03.12.2019 as per which the resolution for liquidation was passed with 82.6% votes of CoC.

10. That the RP has also filed his written consent on 21.11.2019 to act as Liquidator as required under Section 34(1) of IBC 2016.

11. In the circumstances, there being no resolution plan for running the affairs of the Corporate Debtor or any other alternative, this Bench is inclined to order Liquidation of the Corporate Debtor.

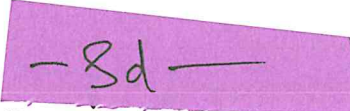


12. In sequel to the above, the Application is allowed, ordering Liquidation of the Corporate Debtor, M/s. Clover Forging and Machining Private Limited in the manner laid down in the Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant Rules and Regulations along with the following directions :

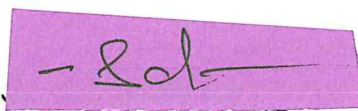
- a. Mr. Rohit Mehra, IBBI Registration No. IBBI/IPA-001/IP-P00799/2017-18/11374, is appointed as Liquidator who has given his written consent to act as Liquidator in terms of Section 34 (1) of IBC 2016.
- b. The Liquidator, is directed to issue Public Announcement stating that the corporate debtor is in Liquidation in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;
- c. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- d. This order shall be deemed to be a notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;



- e. Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor to determine the undervalued and preferential transactions etc., if any.
- f. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.
- g. The Registry is directed to communicate a copy of the Order to the Financial Creditor, the Corporate Debtor and Liquidator at the earliest but not later than seven days from today. A copy of this Order be also sent to the ROC for updating the Master Data. After updating the Master Data, ROC shall send compliance report to the Registrar, NCLT.
- h. The Registry is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;
13. C.A.1562/C-II/(ND)/2019 filed in IB-1120(ND)/2018 is disposed-off in the aforesaid terms.



(L. N. Gupta)
Member (T)



(Ina Malhotra)
Member (J)