

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
PRINCIPAL BENCH

(IB)-01(PB)/2017

IN THE MATTER OF:

Rave Scans Pvt. Ltd.

.....**Petitioner**

SECTION : UNDER SECTION 10 of IBC, 2016

Order delivered on 09.02.2018

Coram:

CHIEF JUSTICE (RTD.) M.M. KUMAR
Hon'ble President

SH. S.K. MOHAPATRA
Hon'ble Member (T)

Presents

For the Petitioner(s):

Mr. Anand Chibbar, Sr. Adv.
Mr. Rakesh Kumar, Ms. Preeti Kashyap, Ms. Chetna Bisht
& Mr. P.K. Sachdeva, Advocates for applicant- Mr. Rahul
Jain

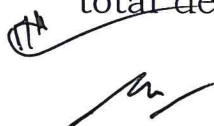
Mr. Parinay T. Vasandani, Advocate for Tata Capital
Financial Services Ltd., Applicant No. 6

Mr. Rajeev Sagar, Advocate for Fullerton & Capital Float

Mr. Kunal Tandon and Mr. Surendra, Advocates for Indian
Overseas Bank

ORDER

This case presents a piquant situation. The Committee of Creditors by E-voting had rejected Resolution Plan, *inter alia*, moved by Resolution applicant namely one Shri Rahul Jain. It was despite the fact that the offer made was for Rs. 51 crores before the Committee of Creditors at the time of E-voting. The liquidation value of the assets of the company were Rs. 36 crores, which is average of both the valuers as per the statement of Resolution Professional. The total debt of the Corporate Debtor is approximately Rs. 121 crores.



When the matter came up for consideration before us for the approval of the minutes of the Committee of Creditors rejecting the Resolution Plan, we passed a detailed order dated 22.01.2018 and the same reads as under:

“It has been represented before us that a Resolution Plan offering a sum of Rs. 51 crores as against the valuation report assessing it for Rs. 33 crores has been rejected by the Committee of Creditors principally by voting of the representative of the Indian Overseas Bank. The Resolution Plan as well as the Minutes of the Meeting dated 12th January, 2018 shows that lenders were still left free to execute Guarantee Agreement against the guarantor in respect of the guaranteed amount of the debt obtained by the principal borrower. If that be so, then we find no reason supporting the view for rejection of the Resolution Plan submitted by one Mr. Rahul Jain. Every process involved rational decision making and the reasons are necessary link between the process and the conclusion reached. The COC has merely given us its conclusion without supply of reasons which could make its decision rationale.

Ms. Rastogi, learned Resolution Professional has apprised us that the Indian Overseas Bank is represented by 35% proportionate voting rights in the Committee of Creditors and it has voted against the Resolution Plan submitted by the applicant-Mr. Rahul Jain. According to her, Mr. R. Suresh, Chief Regional Manager represents Indian Overseas Bank in the Committee of Creditors.



We request Mr. R. Suresh, Chief Regional Manager, IOB to appear before us on 24th January, 2018 so that we may know the views of the IOB for voting against the Resolution applicant. Ms. Rastogi states that intimation to Mr. R. Suresh shall be given by her alongwith a copy of this order. A copy of this order be furnished to Ms. Rastogi today itself.

List the matter on 24th January, 2018”.

A perusal of the aforesaid order shows that no reasons were forthcoming for rejection of the Resolution Plan and we have asked Mr. R. Suresh, Chief Regional Manager, Indian Overseas Bank to appear before us and explain the reason for rejection because the Indian Overseas Bank represented more than 35% proportionate voting rights in the Committee of Creditors. However, no plausible reason has come forward and in the meanwhile Resolution Plan applicant, Mr. Rahul Jain has reiterated his Resolution Plan. A demand draft representing 10% of the amount offered by Shri Rahul Jain has been handed over to the Resolution Professional.

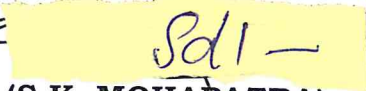
It is pertinent to mention that Company Petition under Section 10 of the Code was admitted on 25th January, 2017 and a period of 270 days has already expired. Keeping in view in the larger public interests and to maximise the assets of the Corporate Debtor, which is the basic objects of the Insolvency & Bankruptcy Code, we deem it appropriate to ask the Committee of Creditors to reconsider its decision and dialte upon the offers made by Shri Rahul Jain. The



Resolution Professional states that the meeting of the Committee of Creditors shall take place on 16th February, 2018 where the Resolution Plan applicant, Mr. Rahul Jain or any other Resolution Plan applicant may participate. Any new Resolution Plan applicant may participate only after complying with the condition of depositing a demand draft representing 10% of the amount offered in the Resolution Plan.

Accordingly, hearing is deferred to 20th February, 2018.


(M.M. KUMAR)
PRESIDENT


(S.K. MOHAPATRA)
MEMBER (TECHNICAL)

09.02.2018
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