

Bench No. I

NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

C.P(IB) NO.
244/KB/2017
IA-309/KB/2017
IA-310/KB/2017

Present: Hon'ble Member (J) Shri Vijai Pratap Singh

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 11th July, 2017, 10.30 A.M

Name of the Company	Burn Standard Company Ltd		
Under Section	10		
Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date

1. Mr. Jishnu Saha, Sr. Adv.
2. Mr. Niladri Khanna, Adv for the Jindal Stainless Limited, Corporate Creditor

1. Subyusami chandhuri, Adv.
 2. Rahul Muddu, Adv.
 3. Sharmistha Ghosh, Adv.
 4. Swasthina Bhattacharya, Adv.
- for the Petitioner
3. Ranjit Rajat, Adv. for Burn Standard Ex-Employees Welfare Association, Howrah (Respondent)
 4. Abhishek Sikdar for Burn Standard Employees Union (Citee) Petitioner

5. Shambhunath Ray (Advocates for the Workmen Union)
6. Radhamohan Ray
7. Ameeta Tewari
8. Rupsa Chakraborty
9. R.L. Mitra, Advocate for Hare Ram Thakur
10. Susanta Paul, Adv. for Burn Standard Ex-Employees Welfare Association, Howrah (Respondent)

P.T.O.

11/07/2017 –CP (IB) No. 244/2017 [IA 309/2017, IA 310/2017] –
Burn Standard Company Ltd.

ORDER

Ld. Counsels for the petitioners and the corporate creditor M/s. Jindal Stainless Limited as well as Ld. Counsels for Burn Standard Ex-Employees Welfare Association, Howrah, Burn Standard Employees Union (CITU) and for Hare Ram Thakur are present.

Shri Partha Kamal Sen, IRP, has submitted Progress Report in this case, wherein it is mentioned that the present term of the IRP has ended on 30/06/2017 as per provisions of IBC. He has further mentioned in the report that the matter was discussed in detail and the authorized representative of the UBI has stated that the decision regarding appointment of Resolution Professional (RP) will be taken after discussions with the competent authority in due course of time.

It appears from the record that in the CoC meeting dated 30/06/2017 no decision was taken by CoC for the appointment of RP, whereas it is mandatory in the first meeting of CoC either to confirm the IRP as RP or change IRP. But the CoC did not decided the same and deferred the matter, on the basis that after discussions with the competent authority in due course of time they will decide. Financial Creditor is not at liberty to defer the matter in such a situation. CoC is directed to decide regarding the appointment of RP, failing which I will recommend to Insolvency and Bankruptcy Board of India to appoint any other person as Resolution Professional.

List the matter on **27/07/2017** and till then IRP shall continue to work as IRP. IRP is further directed to convene the meeting of CoC

to take a decision of appointment of Resolution Professional, failing which Insolvency and Bankruptcy Board of India will appoint any person as Resolution Professional.

Ld. Advocates representing staffs and workers had made representation that though they have filed their claims to IRP but they have not intimated the date of meeting of CoC. It was pointed out by the IRP that if operational creditors' aggregate dues is 10% or more of the debt amount, then only they can be invited to represent in CoC. IRP has submitted that he is accepting the claims of financial creditors including the workers of the company.

IRP is directed to accept claims of financial and operational creditors and if claim of any person exceeds 10% of debt amount then he should be invited in the CoC meeting as per s. 24(3)(c) IBC 2016.

Ld. IRP has filed IA No.310/KB/2017 by which he has sought necessary directions. The concerned officials of the corporate debtor particularly the Chief Manager (F & A) and the Accountant to provide the necessary information pertaining to the correct creditor's ledger as well as the complete list of ex-employees together with their liability to enable him to discharge his duties.

Directions is being issued to the Corporate Debtor to provide the information as requested by IRP and fully cooperate with the IRP in submitting information at the earliest.


(Vijai Pratap Singh)
Member (J)