

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

CORAM

**Shri Vijai Pratap Singh
Hon'ble Member (J)
&
Shri Jinan K.R.
Hon'ble Member (J)**

Company Petition (IB) No.213/KB/2017

In the Matter of:

The Insolvency and Bankruptcy Code, 2016;

-And-

In the Matter of :

Section 10 of the Insolvency and Bankruptcy Code, 2016 read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

-And-

In the Matter of:

Stewarts And Lloyds of India Limited (SLIL), 41, Chowringhee Road, Kolkata -700071

.. **Corporate Debtor/ Corporate Applicant**

Counsels Appeared:

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| 1. Mr. Sidhartha Sharma, Advocate |] For the Corporate Debtor |
| 2. Ms. Namrata Basu, Advocate |] |
| 3. Mr. Hemany Sharma
on & behalf of Mr. Sandeep Kr. Gupta |] Insolvency Professional
] Resolution Professional |

Date of Pronouncing the order : 26.10.2017

ORDER

Per Shri Vijai Pratap Singh, Member(J):

The Company Petition (IB) No.213/KB/2017 has been filed by Corporate Debtor, M/s. Stewarts and Lloyds of India Limited (SLIL), Kolkata under section 10 of the Insolvency & Bankruptcy Code, 2016 read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 alleging that the total current liabilities of the applicant company is Rs.82.1071 crores and it exceeds the assets of the company and the company has been making losses in its operation for the years 2015-16 and 2016-17 and the cash flow for both the years has been negative. This petition under section 10 of Insolvency & Bankruptcy Code, 2016 was admitted by an order dated 1st May 2017 and by the recommendation of the Corporate Applicant, Shri Sandeep Kumar Gupta, Resolution Professional was appointed as Interim Resolution Professional.

The Interim Resolution Professional filed his progress report on 15th July 2017 along with the Minutes of 1st Meeting of the Committee of Creditors held on 12th June 2017. It also appears that in the first meeting of Committee of Creditors, the resolution was passed to appoint Interim Resolution Professional to act as Resolution Professional and by the recommendation of the Committee of Creditors, I.R.P., Shri Sandeep Kumar Gupta was appointed as Resolution Professional by an order dated 25th July 2017. Now the Resolution Professional has submitted a progress report dated 20th October 2017, wherein it is stated that he has filed four progress reports till date and he has informed that till date he has not received any Resolution Plan from any Resolution Applicant. He has also reported that as per section 12 of I.B.C., the Corporate Insolvency Resolution Process shall have to be completed within 180 days from the date of admission of the application. In the instant case, the petition was admitted on 1st May 2017 and 180 days is expiring on 28th October 2017. Therefore, he has submitted his report for

appropriate direction. From the record, it is clear that only one meeting of Committee of Creditors took place on 12th June 2017 and after that, no meeting of Committee of Creditors was held, and ultimately at the fag end of 180 days, Interim Resolution Professional has submitted his report that no Resolution Plan has been submitted. Since there is no recommendation of Committee of Creditors for extension of the time limit prescribed under the Rules, therefore, Corporate Debtor shall go under liquidation as per provision of Chapter-III of the Insolvency and Bankruptcy Code, 2016 read with Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

Since the Resolution Professional, Shri Sandeep Kumar Gupta has conducted only one meeting of the Committee of Creditors during 180 days of the period prescribed, even though no Resolution Plan was under consideration, but he did not advertise the notice in the newspaper for inviting proposal from investors /creditor or any other person. Resolution Professional has not also taken consent of Committee of Creditors for being appointed as Liquidator.

On perusal of the record, it appears that the Corporate Debtor has filed this petition under section 10 of the Insolvency & Bankruptcy Code, 2016 for merely buying time. It also appears that R P has not taken proper steps for inviting Resolution Plan from investors and he submitted for further directions.

In the present case, we think it proper not to appoint Resolution Professional as Liquidator because he was appointed on the recommendation of the Corporate Debtor and he has not taken appropriate steps for completing the Resolution Plan. So, the request is being made to Insolvency & Bankruptcy Board of India for recommending a name of Resolution Professional for being appointed as Liquidator. Further, the following orders are passed herein.

1. Copy of this Order may be communicated to the Registrar of Companies for taking adequate steps.
2. Copy of this Order should be sent to the Insolvency & Bankruptcy Board of India through e-mail for getting the name of Insolvency Professional for being appointed as a Liquidator.
3. After the appointment of the Liquidator, he shall issue a public announcement stating that the Corporate Debtor is in liquidation.
4. The order of Moratorium passed under section 14 of the I.B.C. shall cease to effect, by the provision of sub-section (4) of section 14. A fresh moratorium starts under sub-section (5) of section 33 of I.B.C.
5. The order of liquidation passed under section 33 shall be deemed to be notice of discharge to the officers, employees and workmen of the Corporate Debtor.
6. After getting the name of Resolution Professional from I.B.B.I. and his appointment after that, he shall proceed with the process of liquidation by the procedures prescribed under Chapter III of liquidation process for Corporate Persons.

List on 15.11.2017 for a further progress report on the matter.

Sd/-
(Jinan K.R.)
Member (J)

Sd/-
(Vijai Pratap Singh)
Member(J)

Signed on this 26th day of October 2017