

**IN THE NATIONAL COMPANY LAW TRIBUNAL
"CHANDIGARH BENCH, CHANDIGARH"**

**CA No. 31/2018
IN
CP (IB) NO. 37/Chd/Pb/2017**

**Under Section 33(1)(b) (i), (ii) and (iii) of the
Insolvency and Bankruptcy Code, 2016**

In the matter of :

Hero Steels Limited having its registered office at
E-1, Qutab Hotel Complex, Shaheed Jeet Singh
Marg, New Delhi-110016. ...Petitioner/Operational Creditor

Versus.

Rolex Cycles Private Limited having its
registered office at 726, Industrial Area-B,
Ludhiana (Punjab)-141003. ...Respondent/Corporate Debtor

Order delivered on: 13.02.2018

Coram: Hon'ble Mr. Justice R.P. Nagrath, Member (Judicial)

Present : None.

ORDER

CP (IB) No. 37/Chd/Pb/2017 filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity, the 'Code') was admitted on 13.07.2017 declaring moratorium in accordance with Section 14(1) of the Code. Mr. Anil Kumar, registered Resolution Professional with the IBBI was appointed as Interim Resolution Professional vide Order dated 20.07.2017 with necessary directions.

2. During pendency of the case, CA No.148/2017 was filed by the Canara Bank, the financial creditor to replace the Interim Resolution

Professional with the applicant Mr. Nipan Bansal as the Resolution Professional. Vide order dated 25.09.2017, name of Mr. Nipan Bansal was forwarded to the IBBI for confirmation. After receiving confirmation from IBBI, Mr. Nipan Bansal was appointed as the Resolution Professional.

3. Admittedly the period of 180 days for completion of the resolution process as provided under Section 12 (1) of the Insolvency and Bankruptcy Code, 2016 (for brevity, the 'Code') expired on 08.01.2018. While monitoring the progress reports submitted by the Resolution Professional, Registrar of this Tribunal put up a note that the period of 180 days has expired and the Resolution Professional informed that the application for liquidation proceedings would be filed. The matter was directed to be listed on the judicial side with notice to the Resolution Professional.

4. Vide detailed order dated 31.01.2018 it was observed that despite expiry of 180 days for completion of the resolution process provided under Section 12 (1) of the Code no resolution plan was received within the admissible period nor any application has been filed for extension of the time for completion of the resolution process under sub sections (2) and (3) of I & B Code. It was, therefore, observed that in view of the mandate of Section 33 (1) of I & B Code there is no other alternative except to pass an order of liquidation. It was found fit to appoint a Liquidator from the panel of Liquidators/Insolvency Resolution Professionals circulated by Insolvency and Bankruptcy Board of India vide letter dated 10.01.2018 instead of Mr. Nipan Bansal who was appointed as the Resolution Professional, for the reasons stated in the order dated 31.01.2018.

5. Mr. Dinesh Kumar Seth having registration No.IBBI/IPA-002/IP-N00014/2016-17/10018 was proposed to be appointed as Liquidator and the Designated Registrar of this Tribunal was directed to call for the declaration and disclosures as required by Insolvency and Bankruptcy Board of India regulations, from Mr. Dinesh Kumar Seth. Mr. Dinesh Kumar Seth has sent declaration and consent vide letter No.NCLT/Chd/IRP/1898 dated 05.02.2018. Alongwith this he has filed a copy of certificate of registration with Insolvency and Bankruptcy Board of India.

6. Accordingly, an order is passed in accordance with Section 33 of the Code for liquidation of the Corporate Debtor appointing Mr. Dinesh Kumar Seth as the Liquidator. The Liquidator shall issue public announcement to the effect that the Corporate Debtor is in liquidation and to intimate the same to Registrar of Companies, Punjab about this order.

7. The 'Liquidator' shall publish public announcement in accordance with Regulation 12 of the IBBI(Liquidation Process) Regulations, 2016 and in Form B of Schedule II of these Regulations within five days from today calling upon the stakeholders to submit their claims as on liquidation commencement date and provide the last date for submission of claim which shall be 30 days from the liquidation commencement date.

8. It is further directed that the announcement shall be published in accordance with Regulation 12(3) as under :-

“ (a) in one English and one regional language newspaper with wide circulation at the location of the registered office and principal office, if any, or the corporate debtor and any other location where in the opinion of the liquidator, the corporate debtor conducts material business operations;

*(b) on the website, if any, of the corporate debtor; and
(c) on the website, if any, designated by the Board for this purpose.”*

9. It is further directed that as per Section 33(5) of the Insolvency and Bankruptcy Code, 2016,

- (i) Subject to Section 52 of the Code, when a liquidation order has been passed, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor:

Provided that a suit or other legal proceedings may be instituted by the liquidator on behalf of the Corporate Debtor, with the prior approval of the Adjudicating Authority;

- (ii) However, in terms of sub-section (6) of Section 33 of the IB Code, 2016 the provisions of sub-section (5) of Section 33 of the Code shall not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator;
- (iii) The order for liquidation under Section 33 of the Code shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the liquidator;
- (iv) All the powers of the Board of Directors, key managerial personnel and the partners of the

Corporate Debtor, as the case may be, shall cease to have effect and shall be vested in the liquidator; and

- (v) The personnel of the Corporate Debtor shall extend all assistance and cooperation to the liquidator as may be required by him in managing the affairs of the Corporate Debtor and provisions of Section 19 of the Code shall apply in relation to voluntary liquidation process as they apply in relation to liquidation process with the substitution of references to the liquidator for references to the Interim Resolution Professional.

10. The liquidator shall exercise the powers and perform the duties as prescribed under various provisions of the Code, Regulations and the applicable Rules. The fee of Liquidator, expenses on public announcements and for service of process etc. incurred by the Liquidator shall be reimbursed and shall form part of the liquidation costs. The Liquidator shall be paid fee in accordance with the Regulation 4(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

11. In accordance with Regulation 13 of the Liquidation Process Regulations, 2016, the 'Liquidator' shall file his preliminary report within 75 days and to file regular progress reports every fortnight thereafter.

12. It is clarified that the Financial Creditors are not debarred from having recourse to enforce the personal guarantees and to take proper steps in this regard.

13. Copy of this order be sent by the Registry to the 'Liquidator' at his e-mail ID and also to Mr. Nipan Bansal who was the Resolution Professional with direction to Mr. Nipan Bansal to hand over the entire record of the Corporate Debtor including all the assets and information Memorandum, copies of the progress reports sent by him to the Tribunal and the Minutes of the Meetings etc. whichever are available with him to Mr. Dinesh Kumar Seth forthwith on proper receipt.

Sd/-

(Justice R.P. Nagrath)
Member (Judicial)

February 13, 2018
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