

IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH

Company Application CA(IB) No. 29/KB/2018  
In Company Petition CP(IB) No. 03/KB/2017

IN THE MATTER OF:

An Application under Section 35(1) (n), 60(5) (c) and other applicable provisions of the Insolvency and Bankruptcy Code, 2016 and applicable provisions of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

-And-

IN THE MATTER OF:

Nicco Corporation Limited (In Liquidation), a Company incorporated under the provisions of the Companies Act, 1956 having its registered Office at NICCO HOUSE, 2, Hare Street, Kolkata – 700 001, within the aforesaid jurisdiction;

- Corporate Debtor

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Sd

And

Vinod Kumar Kothari, Liquidator of the Corporate  
Debtor

- Applicant

Coram: Mr. Jinan K. R., Member(Judicial)

For the Applicants:

Mr. Supratim Laha, Advocate

Mr. Bikash Shaw, Advocate

Mr. Vinod Kumar Kothari, Liquidator

For Technology Development Board:

Mr. Avishek Guha, Advocate

Sk. Shahrukh Raja, Advocate

For Financial Creditor, Allahabad Bank, SBI & Canara Bank:

Mr. Om Narayan Rai, Advocate

Mr. Rajesh Chaubey, Law Officer, Allahabad

Date of pronouncement of the Order: 14-02-2018

Sd

Per Jinan K. R.

ORDER

This is an Application filed by the Liquidator under Section 35(1) (n), 60(5) (c) and other applicable provisions of the Insolvency and Bankruptcy Code, 2016 and applicable provisions of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

It is a case in which the Corporate Insolvency Resolution Process has been initiated against Nicco Corporation Limited and vide Order dated 17-10-2017, the Liquidator herein, Mr. Vinod Kumar Kothari, was appointed as the Liquidator for the liquidation of Nicco Corporation Limited.

The Liquidator filed this application seeking direction in regard to the inclusion of workmen representatives in the Monitoring Committee which has been constituted by the Liquidator as per the direction already issued to the Liquidator vide Order dated 24-11-2017.

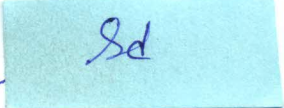
The Ld. Liquidator submits that in regard to consultation of the distribution of proceeds under Section 53, it is fair and just to include the representatives of the workmen and thereby seeks direction from this Bench.

Sd

As per Section 53(1)(b), the workers are placed pari passu with the secured Creditors. That being so, the workmen have been placed at the very same pedestal as that of the Secured Creditors. Moreover, Section 35(2) of the Insolvency & Bankruptcy Code, 2016 empowers the Liquidator an option to consult any of the stakeholders.

So, in order to have an effective deliberation and to have a fair and just conclusion regarding the distribution of proceeds under Section 53 of the Code, it appears to me that inclusion of the representatives of the Workmen enable the Liquidator to have a fair and just conclusion and therefore, the direction sought for inclusion of the representatives of the Workmen in the Monitoring Committee is perfectly maintainable under Section 35(1) of the Code and accordingly, it is just and open to the Liquidator to include any number of the representatives of the Workmen at his choice so as to enable him to have an effective deliberation in the process of distribution of assets of the Company under liquidation.

Upon the aforesaid observation, this application is disposed of.

  
(Jinan K.R.)

Member(Judicial)

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