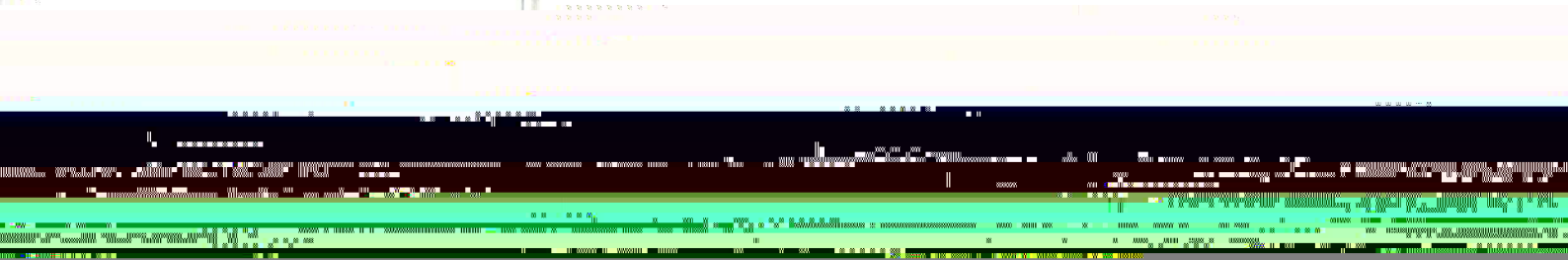


IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

Coram: DR. POONDLA BHASKARA MOHAN,
HON'BLE JUDICIAL MEMBER

SHRI RAGHU NAYYAR,
HON'BLE TECHNICAL MEMBER.



CoC. The first meeting of the CoC was held on 24.08.2018, wherein the CoC unanimously resolved to replace the IRP i.e. Mr. Sandeep Kumar Jain. Consequently, Mr. Pankaj Mahajan was appointed as Resolution Professional ('RP') by this Adjudicating Authority vide its order dated 31.08.2018.

4. The Resolution Professional invited expression of interest ('EOI') on 09.10.2018 pursuant to which no resolution plan was received. Thereafter, on 30.10.2018, the RP again published Form G and called for EOI. Pursuant to the fresh EOI, a resolution plan was received from the consortium of Mr. Kapil Mantri and Kineta Global Limited.

5. RP convened second meeting of CoC on 12.02.2019 to discuss the plan in detail and to seek the vote of the CoC members on the plan. After discussion and deliberation, it was decided by the CoC members that the plan is not acceptable and the Resolution Applicant should be called upon to improve the terms of the plan. Subsequently, the resolution plan was revised two times but the same was rejected by the CoC through e-voting held between 11.04.2019 to 16.04.2019. The votes against/abstentions aggregated to 89.43% of the total voting share. The Reasons stated by the CoC for rejections of plan are as follows:

IA No. 117/JPR/2019
in
CP(IB) No. 601(ND)/2018
TA No. 69/2018



a) Major source of funds are “Realization of Loans and advances”

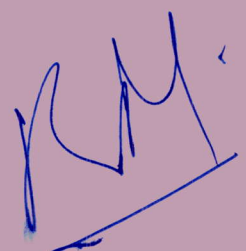
(Rs. 6.55 crores) and friends/family, relative and associates (Rs. 4.50 Crores). Hence, source of funds seems not reliable.

b) The NPV of the average fair value of the assets charged to our bank is 6.93 crores, which is higher than the amount to our bank under the Resolution Plan i.e. Rs. 5.94 crores. *(As per view expressed by Bank of Baroda, a key constituent of the CoC)*

6. In the 10th meeting of CoC dated 20.04.2018, it was brought to the knowledge of the CoC members that the Resolution Plan was rejected and the 270 days period was going to expire on 22.04.2019. There was no possibility of resolution taking place in Engae Cables and Communications Limited. Therefore, the CoC unanimously passed a resolution to liquidate the Corporate Debtor. The operative part of the said Resolution is reproduced below:-

“Resolved that as per Chapter III of Part II of Insolvency and Bankruptcy Code, 2016, the business of the corporate debtor is hereby approved to be liquidated and Resolution Professional is authorised to file the application for seeking order of liquidation with the Hon’ble Adjudicating Authority”

IA No. 117/JPR/2019
in
CP(IB) No. 601(ND)/2018
TA No. 69/2018

7. It is further seen that the RP had also filed Application vide IA No. 72/JPR/2019 against One Mr. Shripal Choudhary and 22 others praying for declaration of certain transactions as preferential, undervalued and fraudulent and to direct the recovery of amounts from the respondents and for directions under Section 67 of the Insolvency and Bankruptcy Code, 2016 to the related respondents.


8. IA No. 185/JPR/2019 was filed by Equitas Small Finance Bank Ltd praying for condonation of delay of 182 days in the filing of their claim before the IRP, and to set aside the decision dated 14.02.2019 of the RP of rejection of the proof of claim and further to direct the RP to accept/admit the proof of claim of the applicant bank.

9. IA No. 215/JPR/2019 was filed by Resolution Applicant praying that the RP be directed to present the proposed resolution plan before the CoC for reconsideration.

10. IA No. 236/JPR/2019 was filed by the Resolution Applicant with the prayer that Bank of Baroda may be added as necessary party in the array of the respondents.

11. Taking into consideration the above facts in relation to the affairs of the Corporate Debtor, the provisions of Section 33(2) of the Insolvency and

IA No. 117/JPR/2019
in
CP(IB) No. 601(ND)/2018
TA No. 69/2018



Bankruptcy Code, 2016 can be contextually seen and are reproduced as follows:

“(2) where the resolution professional at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the adjudicating authority of the decision of the committee of creditor approved by not less than sixty-six percent of the voting share to liquidate the corporate debtor, the adjudicating Authority shall pass a liquidation order as referred to in sub-clause (i), (ii) and (iii) of clause (b) of Sub-Section (1)”

12. In view of the forgoing circumstances and taking into consideration the provisions of law as well as relevant facts, this tribunal is constrained to order for liquidation of the corporate debtor and in such background the corporate debtor stands liquidated with the incidence of liquidation to follow, on and from the date of this order in terms of the provisions of the Insolvency and Bankruptcy Code, 2016 and more particularly as given in Chapter III of the Insolvency and Bankruptcy Code, 2016 and also in terms of Insolvency and Bankruptcy (Liquidation Process)

Regulations, 2017 along with the following directions:

IA No. 117/JPR/2019
in
CP(IB) No. 601(ND)/2018
TA No. 69/2018

- a. **Mr. Suresh Chand Garg**, Resolution Professional holding Registration No. IBBI/IPA-001/IP-P00489/2017-18/10877, is hereby appointed as Liquidator, as the CoC in its meeting on 20.04.2019 has not been

effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence:

liquidation, are directed to be listed along with the IB No. 601(ND)/2018, TA No. 69/2018 while the liquidation proceedings are placed before this Tribunal.

Sd —

Sd —

SHRI RAGHU NAYYAR,
MEMBER (Technical)

DR. POONDLA BHASKARA MOHAN
MEMBER(Judicial)

VISHNU

IA No. 117/JPR/2019
in
CP(IB) No. 601(ND)/2018
TA No. 69/2018

In the National Company Law Tribunal, Jaipur

Item No. 5

IA No. 322/JPR/2019

IA No. 236/JPR/2019

IA No. 215/JPR/2019

IA No. 185/JPR/2019

IA No. 72/JPR/2019

IB No. 601(ND)2018

TA No.69/2018

UNDER SECTION 9 OF IBC, 2016

In the matter of:

M/s Packwell (India) Pvt. Ltd.

.....Applicant/Petitioners

VS.

Emgee Cables and Communication Ltd.

.....Respondent

Order delivered on 25.09.2019

**Coram: DR. POONDLA BHASKARA MOHAN, JUDICIAL MEMBER
SH. RAGHU NAYYAR, TECHNICAL MEMBER**

For Petitioner (s)

: Anubha Singh, Adv.

For Respondent(s)

: Aishwarya, Adv.

Samay Maheshwari, Adv.

Saumil Sharma, proxy counsel for

Amol Vyas, Adv.

ORDER

IA No. 322/JPR/2019

This is an IA filed by the former RP in CP No. IB- 601(ND)/2018, TA No. 69/2018 seeking replacement of Mr. Suresh Chand Garg, the present Liquidator with Sh. Satyendra Prasad Khorania having Registration No. IBBI/IPA-002/IP-N0002/2016-17/10002 as a Liquidator. It is pleaded by the learned counsel appearing for the former RP that earlier this Tribunal ordered liquidation in IA

Shakti



No. 117/IPP/2010, 18.09.2010, 1