(2023) 03 NCLT CK 0029

In the National Company Law Tribunal

Case No : IA NO.92/2023, IA NO.93/2023, IA NO.94/2023 & IA NO.95/2023 IN CP (IB) NO.110/ALD/2017

Akshat Tandon Vs Anju Agarwal Liquidator ?

Date of Decision : 02-03-2023

Acts Referred:

Insolvency and Bankruptcy Code, 2016 — Section 29A
Companies Act, 2013 — Section 230
Micro, Small and Medium Enterprises Development Act, 2006 — Section 8

Citation : (2023) 03 NCLT CK 0029

Hon'ble Judges : Praveen Gupta, Member (J);Ashish Verma, Member (T)

Bench : Division Bench

Advocate : Pulkit Deora, Raghav Dev Garg, Gunjan Jadwani, Abhishek Anand

Final Decision : Disposed Of

Judgement

Ld. Counsels for the applicant in all IAs physically present. Ld. Counsel for Respondent/ Liquidator in all IAs present through VC.

IA NO.92/2023

By way of this application, the IA No.161/2022 is sought to be withdrawn, which is an IA for initiating contempt proceedings against the Liquidator.

In view of the averments made in the application and the submissions made by the Ld. Counsel representing the applicant, the IA No.92/2023 is allowed and IA No.161/2022 is allowed to be withdrawn. Ordered accordingly.

IA No.92/2023 is accordingly disposed off.

IA NO.93/2023

By way of this application, a prayer has been made for seeking withdrawal of IA No.132/2022, wherein the following prayer had been made.

a. Implead JM Financial Asset Reconstruction Company Ltd and Bank of Baroda as party Respondent no. 3 and 4 in I.A. no. 314 of 2021, and take on record amended memo of parties in I.A. no. 314 of 2021

b. Issue directions lo respondent no. 2 to return Rs.18,00,36,877, being the amount received by it from the bank account of liquidation Estate of CD, to the liquidation estate of the CD.

c. Issue directions to respondent no. 3 to return Rs.11,59,00,787 being the amount received by it from the bank account of liquidation Estate of CD, to the liquidation estate of the CD.

d. Issue directions against the respondent nos. 2 and 3, setting aside the decision dated 15.04.2022 of rejecting the scheme of applicants.

e. Issue directions to respondent nos. 2 and 3 that the scheme of the applicants dated I 3.04.2022 be taken up for consideration afresh after directions, if issued as per paras (b) to (c) above, are fully complied with.

f. Issue directions to respondent no. I to reply to the• email of the applicants dated 23.12.2021 in the matter of eligibility of the bidder under section 29A of the code, as referred in para 4.18; and.

g. Pass any other order/direction as deems fit and necessary.

In view of the averments made in the application and the submissions made by the Ld. Counsel representing the applicant, the IA No.93/2023 is allowed and IA No.132/2022 is permitted to be withdrawn. Ordered accordingly.

IA No.93/2023 is accordingly disposed off.

IA NO.94/2023

By way of this application, the previously filed IA No.314/2021 is sought to be withdrawn, in which the following prayer was made.

a. Set aside the decision of the Liquidator taken in Provisional Compliance Report dated 14.10.2021 under Section 29-A of the Insolvency and Bankruptcy Code, 2016, whereby the Liquidator has declared the Applicants ineligible under Section 29-A of the Code.

b. Declare the Applicants eligible to submit the proposed scheme under Section 230 of the Companies Act, 2013, in terms of Section 29-A of the Insolvency and Bankruptcy Code, 2016.

c. Direct the Liquidator to consider the proposed scheme under Section 230 of the Companies Act, 2013, submitted by the Applicants, on its merits.

d. Direct the Liquidator to obtain an MSME certificate in favour of the Corporate Debtor Company by submitting a Memorandum under Section 8 of the MSME Act.

e. Set aside the auction notice published on 25.09.2021, contemplating holding of auction for sale of assets of the Corporate Debtor Company on 25.10.2021.

f. Direct the liquidator not to take any step in pursuance of sale of assets of the Company through auction.

g. Pass any other order or direction as this Ld. Tribunal may deem fit and proper.

h. Award cost of the Application to the Applicants.

In the aforesaid IA No.314/2021, this Tribunal had also passed an interim order dated 01.11.2021 in the following terms :-

"We have heard the Ld. Counsel appearing for the applicant, Ld. Counsel for the Liquidator and also the Liquidator, who appeared in person. After considering the submissions, we believe that it is in the best interest of the corporate debtor to explore whether the scheme is really viable and feasible and results into maximization of value of the corporate debtor.

We therefore hereby direct the applicant to file the scheme with the Liquidator on or before 08.11.2021, placing all relevant information on record to, enable the Liquidator-person-(i) to assess the eligibility of the applicant in terms of Section 29A of the Code; (ii) to consider whether an application for directions U/s 230(1) of the Companies Act, 2013 should be filed before this Tribunal/ Adjudicating Authority for appropriate directions in the matter.

In the meantime no further steps in regard to the auction shall be taken without leave of this Adjudicating Authority."

In view of the averments made in the application and the submissions made by the Ld. Counsel representing the applicant, the IA No.94/2023 is allowed and IA No.314/2021 is allowed to be withdrawn. Ordered accordingly.

IA No.94/2023 is accordingly disposed off.

As a consequence of the withdrawal of IA No.314/2021 itself, the order dated 01.11.2021 passed in IA No.314/2021, shall no longer remain operative.

IA NO.95/2023

By way of this application, IA No.463/2022 is sought to be withdrawn.

The prayer is allowed and IA No.463/2022 is allowed to be withdrawn. Ordered accordingly.

IA No.95/2023 is accordingly disposed off.

