

(2022) 02 NCLT CK 0063

In the National Company Law Tribunal

Case No : I.A. (IB) No. 20/KB/2021 in CP (IB) No. 533/KB/2018

Bripranil Industries Limited Vs

Date of Decision : 17-02-2022

Acts Referred:

Insolvency and Bankruptcy Code, 2016 — Section 53(1)(a), 53(1)(b)(i), 60(5)

Citation : (2022) 02 NCLT CK 0063

Hon'ble Judges : Rohit Kapoor, Member J; Harish Chander Suri, Member, T

Bench : Division Bench

Advocate : Abhijeet Jain

Final Decision : Disposed Of

Judgement

Harish Chander Suri, Member (Technical):

1. This Court convened through video conferencing.
2. Bripranil Industries Limited ('Corporate Applicant') was admitted into Corporate Insolvency Resolution Plan ('CIRP') by this Adjudicating Authority vide order dated 18 December, 2019 Annexure – A of the Petition. Subsequently, pursuant to an order dated 11 January, 2021, Mr. Abhijeet Jain ('Applicant') was appointed as the liquidator of the Corporate Applicant.
3. On 14 January, 2021 the Applicant published announcement for submissions of claims. The last date for submission of claims was on 10 February, 2021. Pursuant to the said announcement, claims were received by Karnataka State Financial Corporation ('KSFC'), Karnataka State Industrial and Infrastructure Development Corporation ('KSIIDC') and State Bank of India ('SBI') within the stipulated time period. KSFC, KSIIDC and SBI through their claim forms informed the Applicant of their intention of non-relinquishment of their security interest over the assets of the Corporate Applicant Annexure – D of the Petition.
4. This is an application filed by the liquidator, praying for the following reliefs (a) For an order excluding the time period lost between April 27, 2021 to October 11, 2021 i.e., 167 days for the purpose of counting total time period for carrying

out the liquidation process of the corporate Debtor

The Applicant submits as follows:

5. After receiving the intimation of non-relinquishment by the KSFC, KSIIDC and SBI, the Applicant in terms of Regulation 21A of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016, asked the KSFC, KSIIDC and SBI to make payment in term of section 53 (1)(a) and 53(1)(b)(i) of the Code within 90 days from the liquidation commencement date and also payment of the excess of the realised value of the assets, which are subject to security interest, over the amount of their claims admitted, to the liquidator within 180 days from the liquidation commencement date.

6. On March 25, 2021, KSFC wrote to the Applicant seeking time from the Applicant till September 30, 2021 for selling the property held as security interest owing to the difficulties faced by it in the wake of the second wave of Covid-19. In response to the said intimation, the applicant emailed to KSFC and requested to apply before the Adjudicating authority for such extension. However, no such applications were filed.

7. As envisaged under Regulation 21A of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016, 90 days period and 180 days period was to expire on April 10, 2021 and July 9, 2021. The Applicant from time to time reminded the security holders to adhere to the Regulation 21A of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016. On July 27, 2021 all the security interest holders were informed about the inclusion of their security interest in the liquidation estate of the Corporate Debtor.

8. In the meantime, between April 27, 2021 to October 11, 2021, the state of Karnataka, where the assets and properties of the corporate debtor are located went into lockdown owing to the outbreak of the second wave. Hence, no effective steps could be taken by the applicant.

9. Soon after the partial relaxation in Covid-19 guidelines in the State of Karnataka, the Applicant reconstituted the Stakeholders Consultation Committee ('Committee') and called for its first meeting on August 13, 2021 to discuss the manner of disposal of assets forming part of liquidation estate.

10. Subsequently, in consultation with the committee, the Applicant published an e-auction notice dated September 04, 2021 of the assets forming the part of the liquidation estate. Pursuant to the said publication two offers were received for Immovable Property and eight offers were received for Plant and Machineries. No offers were received for the other current assets and the company as a whole. On September 23, 2021, the e-auction took place and the sale was concluded on December 4, 2021.

11. It is also pertinent to mention that after the issuance of the public notice of the assets of the Corporate Debtor, several verbal and written complaints were

made to the applicant by the proposed bidder on the grounds of non-compliance by the landlords on whose land the plant and Machineries are located. Because of these circumstances the Applicant was prevented by sufficient cause from completing the liquidation process of the Corporate Debtor.

12. The Applicant further submits that the statutory period for completion of the liquidation proceedings in this instant case expired on January 10, 2022 and the applicant has filed three progress reports up till now indicating the progress in the matter of the liquidation.

13. We've heard the Ld. Counsel and perused the record. In the lights of the above facts and circumstances and for completion of the liquidation process, we pass an order excluding the time period lost between April 27, 2021 to October 11, 2021 i.e., 167 days for the purpose of counting total time period for carrying out the liquidation process of the corporate Debtor. The Liquidator is directed to complete the Liquidation process within the said time frame and keep it in mind that no further extension will be granted.

14. I.A. No. 41/KB/2022 in C.P. (IB) No. 198 /KB/2018 is disposed of. List the main C.P. (IB) No. 198 /KB/2018 on 07.03.2022.

15. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

16. File be consigned to record