(2022) 03 NCLT CK 0064

In the National Company Law Tribunal

Case No : I.A. (IB) No. 346/KB/2021 in C.P. (IB) No. 701/KB/2019

Damodar Valley Corporation APPELLANT

Vs

Bhaskar Shrachi Alloys Limited RESPONDENT

Date of Decision : 23-03-2022

Acts Referred:

Insolvency and Bankruptcy Code, 2016 — Section 35, 53
Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 — Regulation 12, 32, 32A, 33, 45(3)

Citation : (2022) 03 NCLT CK 0064

Hon'ble Judges : Rajasekhar V.K., Member (J);Balraj Joshi, Member (T)

Bench : Division Bench

Advocate : Shruti Singhania, Samir Agarwal

Final Decision : Disposed Of

Judgement

Rajasekhar V.K., Member (Judicial)

1. This Court convened through video conferencing.

2. This Interlocutory Application has been filed under regulation 45(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 ("Liquidation Regulations") by Mr. Samir Agarwal, Liquidator of Bhaskar Shrachi Alloys Limited ("Corporate Debtor") praying for closure of liquidation process of the Corporate Debtor as the Corporate Debtor has been sold as a going concern under regulation 32A read with regulation 45(3) of the Liquidation Regulations.

3. The Corporate Debtor was admitted in Corporate Insolvency Resolution Process ("CIRP") vide order dated 27 September 2019 by this Adjudicating Authority on a petition filed by Damodar Valley Corporation under section 9 of the Code, registered as C.P.(IB) No. 701/KB/2019. Mr. Samir Agarwal was appointed as the Interim Resolution Professional who was appointed as the Resolution Professional. An order dated 29 April 2020 was passed initiating the

commencement of liquidation process of the Corporate Debtor and Mr. Samir Agarwal, the Applicant was appointed as the Liquidator.

4. In accordance with regulation 12 of the Liquidation Regulations, the Liquidator issued Public Announcement in Form B on 03 May 2020 in The Telegraph (English) and Ananda Bazar Patrika (Bengali).

5. The Liquidator formed the Stakeholders Consultation Committee ("SCC") of the Corporate Debtor after verification of claims and the list of members of the SCC was filed before this Adjudicating Authority on 09 September 2020 Annexure H of the I.A which was later amended and the amended list of Stakeholders was filed on 31 December 2020 Annexure I of the I.A.

6. In compliance of section 35 of the Code read with regulations 32, 32A and 33 of the Liquidation Regulations, the Liquidator issued a sale notice dated 23 November 2020 to conduct an e-auction on 08 December 2020 in two newspapers, viz., Financial Express [English] and Aajkal [Bengali].

7. The Liquidator issued another sale notice on 15 December 2020 to conduct e-auction on 24 December 2020 in Financial Express [English] and Aajkal [Bengali].

8. In the second e-auction, out of three bidders only one bidder deposited the Earnest Money Deposit (EMD) i.e., Chinar Steel Segment Centre Private Limited, who participated in the bid for acquisition of the Corporate Debtor. In a SCC meeting held on 28 December 2020, Chinar Steel Segment Centre Private Limited was declared as the "Successful Bidder" for acquiring the Corporate Debtor as a going concern.

9. Thereafter, the Liquidator issued a Letter of Intent ("LoI") to the Successful Bidder on 28 December 2020. Annexure N of the I.A The Successful Bidder issued a Letter of Acceptance ("Letter of Acceptance") on 02 January 2021 to the Liquidator. Annexure O of the I.A. The entire sale consideration was paid by the Successful Bidder on 31 December 2020 after adjusting the EMD.

10. The Liquidator issued a Certificate of Sale on 06 January 2021 to the Successful Bidder. Upon receipt of the entire sale consideration, the Liquidator handed over the physical possession of the factory site of the Corporate Debtor to the Successful Bidder on 07 January 2021. Pursuant to the direction of this Adjudicating Authority on 26 February 2021, the Authorised Representative of the Successful Bidder took handover of the title deeds/books of accounts and other papers.

11. On receipt of the entire sale consideration of ☐ 11,40,00,000/- (Rupees eleven crore forty lakh only), the Liquidator distributed the amount amongst the Stakeholders as per section 53 of the Code. Page 199 of the I.A

12. The Liquidator has submitted his Final Report6 as per regulation 45 of the Liquidation Regulations on 02 March 2021 and Form H i.e. Compliance Certificate under regulation 45(3) of the Liquidation Regulations dated 15 March 2021.

13. Heard the learned Authorised Representative appearing on behalf of the Liquidator and perused the records.

14. The Liquidator has distributed the sale consideration received as per section 53 of the Code.

15. In view of the above facts and circumstances, we allow the closure of the Liquidation Process of the Corporate Debtor.

16. The Liquidator shall stand discharged from his responsibilities, subject to procedural compliances.

17. IA (IB) No.346/KB/2021 in CP (IB) No.701/KB/2019 shall stand disposed of accordingly.

18. The Registry is directed to email copies of the order forthwith to the learned Authorised Representative and the Applicant for information.

19. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.