(2020) 07 NCLT CK 0027

In the National Company Law Tribunal

Case No : Interlocutory Appeal No. 1049 Of 2020 In Company Petition (IB) No. 3634/I&B/MB Of 2019

In Re: Bank Of India Limited And Ors Vs

Date of Decision : 30-07-2020

Acts Referred:
Insolvency And Bankruptcy Code, 2016 — Section 7, 22

Citation : (2020) 07 NCLT CK 0027

Hon'ble Judges : Harihar Prakash Chaturvedi, J;Shyam Babu Gautam, Member (Technical)

Bench : Division Bench

Advocate : Kunal Chheda

Final Decision : Allowed

Judgement

1. This is an Interlocutory Application filed by Bank of India Limited (a Government of India undertaking), (hereinafter called as "the applicant") seeking permission of this Bench for appointment of Mr. Fanendra Harakch Munot as the Resolution Professional to carry on the further process of Govindam Metals & Alloys Private Limited (hereinafter called as the "Corporate Debtor").

2. By an order dated 17.01.2020 of this tribunal delivered in petition numbered C.P. 3634/I&B/MB/2019 which was filed by one Kamlesh Satish Agarwal Goyal (Proprietor of Meera Tradelinks) (hereinafter called the "petitioner") for initiation of the Corporate Insolvency Resolution Process under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") was admitted after confirmation of a default in the loan payment of the petitioner by the Corporate Debtor. Accordingly, CIRP was initiated against the Corporate Debtor and one Mr. Arun Rajabhau Joshi was appointed to act as the Interim Resolution Professional (IRP) directing him to take necessary steps in accordance with the provisions of the Code.

3. Accordingly, the IRP gave a public notice and invited the claim on 24.01.2020 which is annexed and marked as Exhibit A with the copy of this application based on which the applicant, who is a member of the Committee of Creditors with

94.12% votes filed its claim of Rs. 16,14,00,000/- with the IRP out of which he admitted an amount of Rs. 9,83,98,000/-.

4. The applicant mentioned that there were two CoC meetings held by the IRP and the copy of Resolution and Minutes of Meeting are annexed and marked as Exhibit "B" of the application. The voting results in percentage are also annexed and marked as Exhibit "C" with the copy of the application.

5. The applicant stated that the CoC in its meeting has resolved to appoint Mr. Fanendra Harakchand Munot to act as the Resolution Professional of the Corporate Debtor Company with a majority of votes of 100%. The applicant has also annexed in the prescribed format the written consent of Mr. Fanendra Harakchand Munotto act as the RP as Exhibit "D" of the copy of application.

6. The applicant has further prayed to this Bench to direct the current Interim Resolution Professional to hand over all the papers, information and the status reports to Mr. Fanendra Harakchand Munot, who is to be appointed as the Resolution Professional in place of the current IRP.

FINDINGS

We have heard the applicant and also perused all the documents submitted. We observe that this Bench had earlier appointed Mr. Arun Rajabhau Joshi as the Interim Resolution Professional of the Corporate Debtor and accordingly he has performed his functions and also conducted CoC meetings. The CoC in its commercial wisdom has unanimously taken decision to appoint Mr. Fanendra Harakchand Munot as the Resolution Professional of the Corporate Debtor. This was decided with voting of 100% which is much more than the bare minimum of sixty six percent which is provided under Section 22 of the Code.

In view of the same, we find that the entire procedure up till now has been duly followed according to the procedure established by law and accordingly, this Interlocutory Application is allowed and we hereby direct the Interim Resolution Professional to hand over all the papers, information and the status reports of the Corporate Debtor to the herein appointed Resolution Professional Mr. Fanendra Harakchand Munot.

