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(2022) 04 NCLT CK 0050

In the National Company Law Tribunal

Case No : IA (IB) No.210/KB/2022 in CP (IB) No.45/KB/2018

Indian Overseas Bank APPELLANT

Vs

D.C. Industrial Plant Services Private Limited RESPONDENT

Date of Decision : 19-04-2022

Acts Referred:

Insolvency and Bankruptcy Code, 2016 — Section 7, 53
Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 — Regulation 12, 32A, 32(e), 32(f), 45, 45(3)

Citation : (2022) 04 NCLT CK 0050

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

Bench : Division Bench

Advocate : Urmila Chakraborty, Sanjana Nandi, Ram Ratan Modi

Final Decision : Disposed Of

Judgement

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 Process Regulations”) by Mr. Ram Ratan Modi, Liquidator of D.C. Industrial Plant Services Private Limited (“Corporate Debtor”) praying for closure of liquidation process of the Corporate Debtor as the Corporate Debtor has been sold as a going concern to Karanveer Singh Yadav Enterprise Private Limited, under regulation 32A read with regulation 45(3) of the Regulations ibid.

3. The Corporate Debtor was admitted into Corporate Insolvency Resolution Process (“CIRP”) vide order dated 30 June 2018 by this Adjudicating Authority on a petition filed by Indian Overseas Bank under section 7 of the Code, registered as CP (IB) No.45/KB/2018.

4. The Resolution Plan was rejected by the Committee of Creditors (“CoC”) by 100% voting share in the 17th CoC meeting held on 28 May 2019. An order

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dated 19 June 2019 was passed, initiating liquidation of the Corporate Debtor. Mr. Ram Ratan Modi, the Applicant was appointed as the Liquidator.

5. In accordance with regulation 12 of the Liquidation Process Regulations, the Liquidator issued Public Announcement in Form B on 21 June 2019 in Financial Express (English) and Aajkal (Bengali) (West Bengal editions) and Morning India (English) and Sanmarg (Hindi) (Bihar edition).

6. The Liquidator formed the Stakeholders Consultation Committee ("SCC") of the Corporate Debtor after verification of claims and the list of members of the SCC as on 1 June 2019 was filed before this Adjudicating Authority.

7. The first Invitation to Expressions of Interest ("EoI") dated 25 August 2019 and 26 August 2019 was published on the website of the Corporate Debtor and in newspapers on pan-India basis. The last date for submission was 16 September 2019 and bid submission date was fixed on 31 October 2019. The Liquidator received only one EoI in response. Hence, he published a second invitation for EoI on 14 November 2019 and third invitation for EoI on 12 December 2019. The last date of submission of EoI was 23 December 2019. Annexure A5 of the IA

8. On 22 February 2020, Karanveer Singh Yadav Enterprise Private Limited, a prospective bidder, expressed interest in purchasing the Corporate Debtor as a going concern, but since the last date of submission of EoI had expired, the offer was not accepted.

9. Thereafter, the prospective bidder filed an application before this Adjudicating Authority praying for condonation of delay in submitting the EoI. This Adjudicating Authority vide order dated 08 December 2020 condoned the delay and directed the Liquidator to supply the Information Memorandum and other documents to the Prospective Bidder.

10. The following prospective bidders submitted their EoI to participate in the E-Auction process:

a. Square Four Housing & Infrastructure Development Private Limited;

b. Karanveer Singh Yadav Enterprise Private Limited;

c. Balaji Infracon Conclave Pvt. Ltd. (did not deposit participation fees).

11. The E-Auction of the Corporate Debtor was held on 11 February 2021 as per regulation 32(e) & (f) of the Liquidation Process Regulations. Karanveer Singh Yadav Enterprise Private Limited deposited ☐ 3,00,00,000/- (Rupees three crore only) as Earnest Money Deposit ("EMD"). The other two prospective bidders did not deposit EMD, as required under the terms and conditions of the E-Auction Process Document.

12. Karanveer Singh Yadav Enterprise Private Limited was the only bidder to participate in the E-Auction of the Corporate Debtor with a bid amount of ☐ 30,00,00,000/- (Rupees thirty crore only).

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13. Thereafter, the Liquidator issued a Letter of Intent ("LoI") to the Successful Bidder on 15 February 2021. Annexure A10 of the IA The entire sale consideration was paid by the Successful Bidder on 02 November 2021 after adjusting the EMD and participation amount.

14. The Liquidator issued a Certificate of Sale on 30 December 2021 to the Successful Bidder which was amended through an addendum dated 14 January 2022. Upon receipt of the entire sale consideration, the Liquidator handed over physical possession of the immovable properties along with the original title documents, movable properties, books and records of the Corporate Debtor and original Assumed Contracts.

15. On receipt of the entire sale consideration of ☐ 30,00,00,000/- (Rupees thirty crore only) plus interest of ☐ 35,47,070/- (Rupees thirty-five lakh forty-seven thousand and seventy only), the Liquidator has distributed the amount amongst the Stakeholders as per section 53 of the Code. Annexure A17 of the IA

16. The Liquidator has submitted his Final Report Annexure A19 of the IA as per regulation 45 of the Liquidation Process Regulations on 02 March 2021 and Form H, i.e., Compliance Certificate under regulation 45(3) of the Liquidation Process Regulations dated 17 February 2022.

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

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

19. IA (IB) No.210/KB/2022 and CP (IB) No.45/KB/2018 shall both stand disposed of accordingly.

20. The Registry is directed to email copies of the order forthwith to the learned Counsel on record and the Liquidator for information.

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

22. File be consigned to the record.

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