

(2021) 12 NCLT CK 0031

In the National Company Law Tribunal

Case No : CP/507/IB/2017

M/s Diamond Engineering Chennai Pvt. Ltd Vs

Date of Decision : 07-12-2021

Acts Referred:

Citation : (2021) 12 NCLT CK 0031

Hon'ble Judges : R. Sucharitha, Member (J); Sameer Kakar, Member, (J)

Bench : Division Bench

Final Decision : Dismissed

Judgement

The Resolution Applicant is represented by the Ld. Counsel Mr. T.K.Bhaskar; Ld. RP Mr. V.Mahesh is present in person; third party purchaser is represented by the Ld. Counsel Mr. Ravi Rajagopalan through video conferencing mode.

IA/687/2020 IN MA/936/2019:- In this IA, the Counter is not available on record. The Respondent is permitted to file a fresh copy of the Counter in the Registry before the next date of hearing.

List this IA/687/2020 IN MA/936/2019 on 07.01.2022 for further hearing and disposal.

IA/890/IB/2020 IN MA/75/2020 IN MA/936/2019

MA/60/CHE/2021 IN MA/75/2020 IN MA/936/2019: -

In IA/890/2020, Axis Bank Ltd is represented by the Ld. Counsel Mr. Pushkar and Ld. RP Mr. V.Mahesh is present in person; R3 to R5 are represented by the Ld. Counsel Mr. T.K.Bhaskar through video conferencing mode.

In MA/60/CHE/2021 has been filed by Mr. P.Mohanraj, the successful Resolution Applicant / Corporate Debtor. These two Applications have been filed for impleading themselves in MA/75/2020.

MA/75/2020 has been filed by State Bank of India seeking a direction for

implementation of the Resolution Plan and the same was withdrawn by State Bank of India under Memo. Therefore, these two Applications i.e., IA/890/IB/2020 and MA/60/CHE/2021 are dismissed as infructuous.

MA/1134/2019: - The Applicant is represented by the Ld. Counsel Mr. Deepesh; R1 and R2 are represented by the Ld. Counsel Mr. T.K.Bhaskar and the Ld. RP Mr. V.Mahesh is present in person through video conferencing mode.

Heard the submissions of the parties. Order reserved.

SR/1057/2020: - This Application has been filed by the Commercial Tax Department. There was no representation on behalf of the Department for more than two hearings.

This Application has been filed against the order of the RP dated 10.08.2020 which is annexed at page No. 88 of the Application.

Ld. RP states that the Applicant herein have not submitted any claim before the RP during the CIRP period.

On 30.09.2019, the Resolution Plan has been admitted by this Adjudicating Authority. No appeal has been filed and hence the Resolution Plan is attained finality.

Subsequently, the Applicant herein submitted the claim which has been rejected by the RP.

Therefore, SR/1057/2020 is dismissed as not maintainable.

IA/1266/1B/2020 IN MA/936/2019: - This Application has been filed by the Axis Bank Ltd against the Resolution Applicant who is the MSME Unit which is taken over by the erstwhile promoters under Resolution Plan and the same was admitted by this Adjudicating Authority on 30.09.2019.

It is an admitted fact that the Resolution Plan could not be implemented and there is a delay in implementation of the Resolution Plan is admitted by all the parties before us.

Ld. RP is the Chairman of the Monitoring Committee and states that out of four properties of Corporate Debtor, there are prospective buyers for two properties and there is a possibility to make the plan successful and viable one.

However, the State Bank of India and the Axis Bank Ltd, the two leading creditors do not approve the stand of the Resolution Applicant and very strongly opposes to extension of time for implementation of the plan.

It is also pertinent to mention herein earlier MA/75/2020 was filed by the State Bank of India seeking a direction to the Resolution Applicant to implement the plan at the earliest. Subsequently, the State Bank of India has withdrawn MA / 75/2020.

We have heard all the parties.

Liquidation being the last resort as repeatedly emphasized in various orders by the Hon'ble NCLAT and the Hon'ble Supreme Court.

We have taken the suggestions made by the Ld. RP who is also the Chairman of the Monitoring Committee. The RP is permitted to conduct the stakeholders meeting and discuss about the viability of implementation of the plan and submit the minutes of the meeting before the next date of hearing.

The RP is permitted to conduct more than one meeting, if necessary. List this IA/ 1266/IB/2020 on 07.01.2022 for hearing and disposal. No further adjournment shall be granted in this matter.

All parties are permitted to file compilation, additional documents, citations, reply, if any, on or before the next date of hearing.