
(2020) 06 NCLT CK 0068

In the National Company Law Appellate Tribunal

Case No : Company Petition No. (IB)-31(PB) Of 2018

Oriental Bank Of Commerce

APPELLANT

Vs

Lotus Auto Engineering Limited

RESPONDENT

Date of Decision : 01-06-2020

Acts Referred:

Insolvency And Bankruptcy Code, 2016 — Section 7, 60(5)

Citation : (2020) 06 NCLT CK 0068

Hon'ble Judges : B.S.V. Prakash Kumar, J; Hemant Kumar Sarangi, Member (Technical)

Bench : Division Bench

Advocate : S.K. Sharma, Abhirup Das Gupta, Ishan Duggal, Kshitiz Karjee, Abhijit, A. Jain, B. Arora

Final Decision : Disposed Of

Judgement

Hemant Kumar Sarangi, Member (T)

1. This is an application filed by the applicant under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") with following prayer:

i) allow the applicant to intervene in the present petition bearing C.P. IB 31/PR/2018;

ii) Extend the corporate insolvency resolution process of the Corporate Debtor for a period for 60 days;

iii) Allow the Applicant to submit its resolution plan and direct the Committee of Creditors and the Resolution Professional of the Corporate Debtor to consider the resolution plan;

2. The facts in brief are, the financial creditor, Oriental Bank of Commerce, had filed an application under Section 7 of the Code bearing number IB-31(PB)/2018 for initiation of Corporate Insolvency Resolution Process against the corporate

debtor. The said application was admitted by this Tribunal on 07.08.2018, initiating Corporate Insolvency Resolution Process (CIRP), against the corporate debtor. Thereafter, after completion of the CIRP period, as there was no approved resolution plan the resolution professional has filed an application for liquidation of the corporate debtor.

3. It is the case of the applicant, that the Corporate Debtor is an Amtek Group Company. The Flagship Company of Amtek Group, i.e., Amtek Auto Limited and one another group company Castex Technologies Limited, are also undergoing Corporate Insolvency Resolution Process, wherein, the Applicant has been declared as the highest bidder and in final negotiations/discussions with the respective Committee of Creditors.

4. It is also stated that the Corporate Debtor has major procurement of inputs from Castex Technologies Limited which is another Amtek Group Company. In the Amtek supply chain, the Corporate Debtor is entirely dependent upon Castex Technologies Limited for procurement and dependent upon Amtek Auto Limited for selling and distribution. This mechanism gave synergy to Amtek Group and whoever will be a successful resolution applicant of Amtek Auto Limited, Castex Technologies Limited will definitely be needing the control/ownership of this Corporate Debtor to maintain business synergy.

5. The applicant further asserted that it will have serious interest to acquire control/ownership of the Corporate Debtor, once the applicant is declared as a successful resolution applicant in both Amtek Auto Limited and Castex Technologies Limited, by the respective committee of creditors in terms of applicable law.

6. Heard the parties and perused the case records.

a. It is an admitted fact that the CIRP period of the corporate debtor was extended thrice by this Tribunal. The applicant had sufficient time to file its resolution plan before the Committee of Creditors but the applicant failed to do that within a specified period of time. The Corporate Insolvency Resolution Process under the Code is a time bound process and admittedly no steps were taken by the applicant in respect of submitting its resolution plan before CoC.

b. The applicant has not submitted its expression of interest before the Committee of Creditors during the specified period of time. No reasonable ground for non-filing of expression of interest as well as resolution plan before CoC on time has been given by the applicant. Since the CIR Process is a time bound process such prayer of applicant cannot be allowed at this belated stage in absence of sufficient ground for the same.

7. In view of the above, the application filed by the applicant is dismissed.

8. CA. 1066 (PB)/2020 in IB 31 (PB)/2018 is disposed of in aforesaid terms.