(2020) 02 NCLT CK 0174

In the National Company Law Appellate Tribunal

Case No : Company Application No. 159/ND Of 2019 In (IB) No. 74/ND Of 2018

Pankaj Khetan And Anr — APPELLANT

Vs

Yogesh Kumar Gupta And Anr — RESPONDENT

Date of Decision : 14-02-2020

Acts Referred:

Insolvency And Bankruptcy Board Of India (Liquidation Process) Regulations, 2016 — Regulation 4, 4(2)(b), 12, 30, 31
Insolvency And Bankruptcy Code, 2016 — Section 9, 34(1), 52(1)(b), 60(5)

Citation : (2020) 02 NCLT CK 0174

Hon'ble Judges : Dr. Deepti Mukesh, J;Hemant Kumar Sarangi, Member (Technical)

Bench : Division Bench

Advocate : Neeraj Kumar Gupta

Final Decision : Disposed Of

Judgement

Dr. Deepti Mukesh, J

1. The present application has been filed Mr. Pankaj Khetan (hereinafter referred to as â??applicantâ?), holding registration no. IBBI/IPA-002/IP-

N00010/2016-17/10014, being the liquidator appointed in application bearing no. IB /74/ (ND)/2018 under section 60(5) of Insolvency and Bankruptcy

code, 2016 (hereinafter referred to as â??Codeâ??) for seeking exemption of time of 60 days for the liquidation process of corporate debtor.

2. The brief facts of the matter are that the operational creditor had filed an application bearing no. IB /74/ (ND)/2018 under Section 9 of the code for

initiation of Corporate Insolvency Resolution Process against the corporate debtor. The applicant herein had been appointed as a liquidator in terms of

Section 34(1) of the Insolvency and Bankruptcy Code by the Honâ??ble National Company Law Tribunal, New Delhi Bench, vide order dated

01.02.2019.

3. In compliance with regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, liquidator made a public

announcement in Form B of Schedule II on 10.02.2019 in Financial Express (in English) and in Jansatta (Hindi).

a) Intimating the commencement of Liquidation Process against the M/s Integrated Caps Pvt. Ltd. (Corporate Debtor); and

b) Calling the creditors to submit the proof of claims

4. The last date of submission of claims was 08.04.2019.

5. As per Regulation 30 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation 2016, it is duty of the liquidator to verify the

claims of the creditor based upon the books and accounts as prepared by the liquidator on the basis of the information/documents provided by the

Incumbent Resolution Professional. The Resolution professional was unable to provide proper and correct documents /information within the

reasonable time to the applicant irrespective of repeated reminders and finally the Resolution Professional submitted tally backup and other documents

were received from concerned parties.

6. The applicant submitted that as per the provision of Section 52(1) (b) of the code, the syndicate bank was to intimate about realizing or relinquishing

their security interest to the liquidation estate and receive proceeds from the sale of assets by the applicant. There was substantiated delay in letters of

relinquishment submitted by syndicate bank (holding security of assets of Corporate Debtor and more than 96.74% of CoC). The applicant could also

not proceed with the sale of assets of the corporate debtor due to the time taken by the valuers/professionals, appointed during the CIRP, in offering

clarifications, regarding variations in valuations.

7. The said letter of relinquishment was received from the bank only on 07.06.2019, therefore time period for report of liquidator from 01.04.2016 to

30.06.2019, is required to be exempted while considering the time granted to the liquidator to verify the claim received from creditors of the corporate

debtor. The applicant submits that the time taken by the syndicate bank in issuing the letter is the major cause, of delay in disposal of assets of

corporate debtor and distribution of liquidation estate.

8. Considering the documents on record and submissions of counsel of liquidator, it manifests that the delay of 60 days caused in liquidation process of

corporate debtor is due to the time taken by the syndicate bank to issue the relevant documents with respect to realization or relinquishment of their

security interest of liquidation estate and receive proceeds from the sale of assets by the applicant. The liquidator could then only proceed further for

disposal of assets of the corporate debtor and distribution of liquidation estate.

9. Hence the liquidator prays that the delay of 60 days shall be excluded for computation of time and the fee chargeable by liquidator on time scale

shall be in accordance with table given in Rule 4(2) (b) (Liquidation Process) Regulation 2016.

10. We hereby order that :

a) The time period of 60 days is exempted and time is granted to the liquidator for verification of claim received from creditors of the corporate debtor

and to prepare list of stake holder.

b) The Incumbent Resolution Professional, Mr. Yogesh Kumar Gupta is directed to cooperate with the applicant if and as required and provide all

information /documents, which are imperative to verify the claims received from the creditors of the corporate debtor.

c) Applicant is hereby granted an extension if required to appoint registered valuer for fresh valuation of corporate debtor. The applicant is also

directed to prepare revised asset memorandum as per regulation 31 of IBBI (Liquidation Process) Regulations 2016.

11. Accordingly, the present application is allowed & disposed off in terms of the above order in accordance with Rule 4 of (Liquidation Process)

Regulation 2016.

