

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
SPECIAL BENCH

ITEM No. 10
(IB)-22(PB)/2018

IN THE MATTER OF:

Daimler Financial Services Pvt. Ltd ... Applicant/Petitioner
Vs
Value Infracon India Pvt. Ltd ... Respondent

Order under Section 7 of Insolvency and Bankruptcy Code, 2016 (CIRP)

Order delivered on 16.05.2023

CORAM:

JUSTICE RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT

SH. ATUL CHATURVEDI
HON'BLE MEMBER (TECHNICAL)

(HEARING THROUGH PHYSICAL MODE AND VC)

PRESENT:

For the Applicant : Ms. Eshna Kumar, Ms. Prachi Bhatia, Advs. in
IA-1895/22
Ms. Swati Surbhi, Advocate in IA-4175/2022
Mr. Vaibhav Tyagi, Advocate in IA-1884/22
For the SRA : Mr. Neeraj Kr. Gupta, Proxy Counsel

ORDER

IA-1895/2022

Today, when the matter was taken up, Ld. Counsel Ms. Eshna Kumar produced the proceeding of IBBI dated 23.08.2022, which related to Mr. Sanjay Kumar Singh, Insolvency Professional as he was then RP, in the present case and the following order is passed.

“6. ORDER

6.1 *In view of the forgoing contraventions, the DC finds that Mr. Sanjay Kumar Singh has acted against the letter and spirit of the Code by allocating voting share to FC based on clubbing the whole loan amount disbursed to the three corporate debtors in the present CD despite repeated instructions of the Hon'ble AA and the Hon'ble NCLAT to ascertain the claim amount of FC based on the amount actually disbursed to the individual corporate debtor. The Code assigns the role of a saviour to the CoC. The constitution of the proper CoC is a crucial activity performed by the IP for the effective,*

timely and credible functioning of the entire edifice of the resolution

process. In the present CD, admission of entire claim amount of FC disbursed to the three corporate debtors by Mr. Singh resulted in 96.77% voting share to FC and tilted the CoC in favour of the FC against the homebuyers. The FC with improper voting share having majority resolved to liquidate the CD without inviting the Expression of Interest for resolution of the CD. The decision of liquidation was taken without following the true spirit of the resolving the CD which is a heart and soul of the Code and ignoring the interest of other creditors. Hence, the DC, in exercise of the powers conferred under Section 220 of the Code read with Regulation 13 of the IBBI (Inspection and Investigation) Regulations, 2017 and Regulation 11 of the IBBI (Insolvency Professionals) Regulations, 2016, hereby suspends the registration of Mr. Sanjay Kumar Singh having Registration No. IBBI/IPA-002/IP-N00188/2017-18/10505 for a period of two years.

6.2 *This Order shall come into force on expiry of 30 days from the date of its issue.*

6.3 *A copy of this order shall be sent to the CoC of all the Corporate Debtors in which Mr. Sanjay Kumar Singh is providing his services, if any. The CoC may decide whether to continue his services or not. In case, CoC decide to discontinue his services, CoC may file an appropriate application before AA*

6.4 *A copy of this order shall be forwarded to the ICSI Institute of Insolvency Professionals where Mr. Sanjay Kumar Singh is enrolled as a member for their further necessary action.*

6.5 *A copy of this Order shall also be forwarded to the Registrar of the Principal Bench of the National Company Law Tribunal, New Delhi, for information. Accordingly, the show cause notice is disposed of.*

-Sd/-

(Ravi Mital)

Chairperson, IBBI

Dated: 23rd August 2022

Place: New Delhi

Hence, Mr. Sanjay Kumar Singh shown as Monitoring Professional in the cause list to be deleted with immediate effect.

In the meanwhile, Ld. Proxy Counsel for the SRA seeks time to enable the counsel on record to argue the matter in relation to the pending application.

List the matter again **on 28.08.2023** for a physical hearing.

-sd-

(RAMALINGAM SUDHAKAR)
PRESIDENT

-sd-

(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

DIPAK – 16.05.2023