IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1

ITEM No.303

IA/189(AHM)2024 in IA 794 of 2020 in
CP(IB) 171 of 2017

Order under Section 33(5) r.w 60(5) IBC r.w Rule 11 of NCLT Rules, 2016
IN THE MATTER OF:

Jigar Bhatt Liquidator of RMOL Engineering and Offshore Limited **.....Applicant**

Order delivered on: 07/02/2024

Coram:
Mr. Shammi Khan, Hon'ble Member(J)
Mr. Sameer Kakar, Hon'ble Member(T)

PRESENT:
For the Applicant :
For the Respondent :

ORDER

The case is fixed for the pronouncement of the order. The order is pronounced in open Court, vide separate sheet.

-SD-
SAMEER KAKAR
MEMBER (TECHNICAL)

-SD-
SHAMMI KHAN
MEMBER (JUDICIAL)

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH - I, AHMEDABAD

IA189/(AHM)2024
in
CP(IB)/171(AHM)/2017

[An application filed under Sections 33(5) and 60(5) *of the Insolvency and Bankruptcy Code, 2016 r.w. Rule 11 of the NCLT Rules, 2016]*

MR. JIGAR BHATT
(Liquidator of RMOL Engineering and Offshore Limited)
Having address at:
1010, Shilp-Zaveri, Shyamal Cross Roads,
Satellite, Ahmedabad, Gujarat-380015.

....Applicant

In the matter of

CP (IB) No. 171 of 2017

IFCI LIMITED.

....Financial Creditor

Versus

RMOL ENGINEERING AND OFFSHORE LIMITED

....Corporate Debtor

Order Pronounced On: 07.02.2024

CORAM:

SHAMMI KHAN, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)

Appearance:

For Applicant(s) : Mr. Jigar Bhatt, Liquidator in Person
a/w. Mr. Chaitanya Patel, Adv.

O R D E R
[Per: Bench]

IA/189(AHM)2024

1. This is an IA filed by the Liquidator of RMOL Engineering and Offshore Limited under Section 33(5) r.w. 60(5) IBC r.w. Rule 11 of NCLT, Rules, 2016 seeking the following prayers:-

   a) *To allow the present application;*

   b) *To grant the post facto approval under sub-section (5) of section 33 of the Insolvency and Bankruptcy Code, 2016 for instituting legal proceedings under section 7 of the Insolvency and Bankruptcy Code, 2016 by the Liquidator on behalf of the corporate debtor against 5 bond issuer entities namely Avocado Reality Private Limited, Budding Mercantile Company Private Limited, Replenish Realty Private Limited, Slimline Realty Private Limited and Winsome Realty Private Limited for the debt they owe towards corporate debtor and having defaulted in repayment of the same on due date;*

   c) *To permit the Liquidator to continue and proceed with Company Petition No. IB/1022/2023, Company Petition No. IB/1007/2023, Company Petition No. IB/1019/2023, Company Petition No. IB/1020/2023, and Company Petition No. IB/1021/2023, pending before Hon'ble NCLT Mumbai bench as filed under section 7 of the Insolvency and bankruptcy Code, 2016 by the Liquidator on behalf of corporate debtor;*

   d) *To further permit the Liquidator to file any fresh applications against all or any of the 5 bond issuer entities, if any of the petitions as specified in prayer (c) above gets dismissed on the ground of non-*

availability of the prior approval of the Adjudicating Authority under sub-section (5) of section 33 of the Insolvency and Bankruptcy Code, 2016;

e) *Such other reliefs as this Hon'ble Tribunal may deem fit and proper in the interest of justice and facts and circumstances of the present case in the interest of justice.*

2. It is stated that this Adjudicating Authority vide order dated 06.12.2021 in IA No. 794 of 2020 in CP(IB) 171 of 2017 ordered for liquidation of the Corporate Debtor and appointed the Applicant herein as liquidator of the Corporate Debtor.

3. The public announcement was made on 16.12.2021. Pursuant to which, the Stakeholders Consultation Committee (**"SCC"**) was formed.

4. It is stated that upon due diligence as conducted by the liquidator, it came to the notice that the Corporate Debtor is not having any business, any physical assets, or any employees. The entity is only having subscriptions in non-convertible unsecured bonds of 5 private limited entities which are in the form of debt due to the Corporate Debtor. These bonds were subscribed some time in 2013 and were due for redemption on 25.07.2019 and have a face value

of Rs.306.73 crore and were to be redeemed at 40% premium.

5. The liquidator, thereafter, issued a demand notice on 10.02.2022 to the following bond issuer companies:-

   i. *Avocado Reality Private Limited*
   ii. *Budding Mercantile Company Private Limited*
   iii. *Replenish Realty Private Limited*
   iv. *Slimline Realty Private Limited*
   v. *Winsome Realty Private Limited*

6. It is stated that the then management of the Corporate Debtor and the erstwhile Resolution Professional of the Corporate Debtor have also issued demand notice to these 5 entities. However, these entities failed to redeem the bond and repay the amount due to the Corporate Debtor till the date.

7. It is stated that a proposal was put before the SCC in its meeting held on 04.03.2022 for initiation of application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (**"IBC, 2016"**) against 5 bond issuer entities, however, IFCI Limited holding 60.34% stake dissented to the proposal.

8. Meanwhile, this Tribunal granted extension to the liquidation period vide order dated 11.01.2023 and extended the period till 10.01.2024.

9. It is stated that time and again the proposals were moved to SCC, however, IFCI who holds the majority in the Stakeholders' Committee did not approve the proposal for initiation of CIRP against the 5 entities.

10. Since the only asset of the Corporate Debtor is the bond held by the Corporate Debtor in the 5 companies, the liquidator voluntarily filed applications on 30.09.2023 under Section 7 of the IBC, 2016 against the 5 entities. Details of which are provided below:-

Sr no.	CP IB No.	Case Tittle	Updates/ Next Date
1	**Company Petition No. IB/1022/2023**	RMOL Engineering and Offshore Limited Vs. **Winsome Realty Private Limited** **Court VI**	Arguments are concluded on 23.01.2024. Matter reserved for orders. Time granted to file written submissions
2	**Company Petition No. IB/1007/2023**	RMOL Engineering and Offshore Limited vs **Slimline Realty Private Limited** **Court II**	15.02.2024

Sr no.	CP IB No.	Case Tittle	Updates/ Next Date
3	**Company Petition No. IB/1019/2023**	RMOL Engineering and Offshore Limited Vs. **Avocado Realty Private Limited** **Court III**	29.01.2024
4	**Company Petition No. IB/1020/2023**	RMOL Engineering and Offshore Limited Vs. **Replenish Realty Private Limited** **Court IV**	07.02.2024
5	**Company Petition No. IB/1021/2023**	RMOL Engineering and Offshore Limited Vs. **Budding Mercantile Company Private Limited** **Court V**	25.01.2024

All above petitions are pending with Adjudicating Authority Mumbai Bench.

11. It is submitted that liquidator filed IA No. 65 of 2024 seeking extension of liquidation period of the Corporate Debtor by further one year. Vide order dated 16.01.2024, this Adjudicating Authority allowed the extension for a period of one year.

12. The liquidator referred to Section 33(5) of IBC, 2016 which is reproduced below:-

"Section 33 – initiation of liquidation

(5) Subject to section 52, when a liquidation order has been passed, no suit or other legal proceeding shall be instituted by or against the corporate debtor;

Provided that a suit or other legal proceeding may be instituted by the liquidator, on behalf of corporate debtor, with the prior approval of the Adjudicating Authority".

13. The liquidator seeks post facto approval for the institution and continuation of legal proceedings under Section 7 of IBC, 2016 against 5 bond issuer companies.

14. We have heard the learned liquidator in person and have perused the documents as placed before us.

15. The only asset of the Corporate Debtor is the bond issued by the 5 entities as mentioned above. The liquidator has initiated Section 7 proceedings against the 5 entities. In terms of Section 33(5) of the IBC, 2016, no prior permission was taken from this Tribunal before initiation of such proceedings.

16. By this application, the liquidator seeks post facto approval of the action already initiated by the liquidator.

17. As the only assets of the Corporate Debtor is bond held by 5 entities, in the interest of the Corporate Debtor and in order to maximize the value during the liquidation

process, this Adjudicating Authority hereby allows prayer (b) and (c) as stated above. In view of the above, this application i.e., IA/189(AHM)2024 is allowed and accordingly disposed off.

18. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

-SD-	-SD-
SAMEER KAKAR	**SHAMMI KHAN**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

Rajeev Kr. Sen/P.S.