

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II

8. IA 820/2023- New Application Hearing IA 1826/2022
In C.P. (IB)/1474(MB)2019

CORAM:

SHRI SHYAM BABU GAUTAM
HON'BLE MEMBER (T)

SHRI KISHORE VEMULAPALLI
HON'BLE MEMBER (J)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 06.03.2023

NAME OF THE PARTIES: - IA 820/2023 Jayesh Sanghrajka

V/s

Committee of Creditors of S.K. Elite
Industries Limited
IA 1826/2022 Jayesh Sanghrajka
IN THE MATTER OF
Piramal Capital and Housing Finance
Limited

V/s

SK Elite Industries (India) Ltd.

APPEARANCES: -

FOR APPLICANT/RP : Senior Adv Vikram Nankani

FOR RESPONDENT : Counsel Karan Bhide a/w. Adv. Nanki
Grewal and Adv. Raveena Modi (R-1)
Adv. Nausher Kohli a/w Adv. Chanakya
Keswani and Adv. Dhruvee Patel (R-2)

Section: 60(5) Sec 33(1) (b) (i) to (iii) r/w Sec 33(3) U/s 7 of (IBC)

ORDER

IA.No.820/2023: - The matter is taken up through Virtual Hearing (VC). The present application is filed by Mr. Jayesh Sanghrajka, Resolution Professional of S. K. Elite Industries u/s 60(5) of the IBC Code, 2016 Read with Rule 11 of the NCLT Rules 2016 inter alia seeking the withdrawal of IA.No.1826/2022 filed for initiating liquidation of the Corporate Debtor and to permit Respondent No.1 (the CoC) to consider, negotiate and vote upon the Resolution Plan submitted by Respondent No.2 along with consequential directions thereon.

During the 15th CoC meeting dated 05.05.2022, in the light of the fact that none of the PRAs submitted revised offer to the satisfaction of the sole member of the CoC, the CoC resolved to the liquidate the Corporate Debtor and to appoint the applicant as the liquidator of the Corporate Debtor. Accordingly, the applicant had filed an application for liquidating the Corporate Debtor bearing IA.No.1826/2022 under Section 33 of the Code.

During the pendency of IA.No.1826/2022, Respondent No.2 approached the applicant with an intent to submit a resolution plan for the corporate Debtor, subject to the appropriate directions of NCLT granting/allowing them to submit the same. Respondent No.1 informed the Applicant that it is willing to consider the said proposal and the resolution plan of Respondent No. 2, subject to NCLT allowing it to examine/consider the resolution plan. The applicant has also received a Resolution Plan along with supporting documents from Respondent No. 2. However, the same have not been placed before the CoC for their consideration in view of the pendency of IA.No.1826/2022 and necessary approval/directions from this Tribunal. Previously this Tribunal had allowed the extension of the CIRP period till 18.04.2022 vide order dated 25.11.2021.

In view of the aforesaid developments and the instructions of the CoC, the applicant has approached this Tribunal with a view to obtain appropriate directions given the current stage of the CIRP.

In view of the aforesaid facts and circumstances narrated hereinabove we are satisfied with the reasons stated by the applicant in the application and we hereby exclude the period commencing from 18.04.2022 till the expiry of one month from the date of this order from the CIRP of the Corporate Debtor hence, prayer 'b' is allowed.

The applicant is directed to place the Resolution Plan submitted by Respondent No.2 before the CoC i.e. Respondent No.1 for their consideration hence, prayer 'c' is granted further the applicant is granted liberty to file an application for the approval of the Resolution Plan in case the same is approved by the Respondent No.1 hence, prayer 'd' is granted.

The interim application IA.No.1826/2022 filed by the applicant for initiating liquidation of the Corporate Debtor shall be kept in abeyance.

In view of the aforesaid observations, the prayers '**b**', '**c**', and '**d**' are granted and **IA.No.820/2023 is allowed and disposed of**. List the matter on **19.04.2023**.

Sd/-

SHYAM BABU GAUTAM
Member (Technical)

Jagdish

Sd/-

KISHORE VEMULAPALLI
Member (Judicial)