

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 112
(IB)-60(PB)/2018

IN THE MATTER OF:

Oriental Bank of Commerce

... **APPLICANT / PETITIONER**

Vs

Bindals Sponge Industries Limited

... **RESPONDENT**

SECTION:

Under Section 7 of IBC

Order delivered on 26.07.2021

CORAM:

SH. BHASKARA PANTULA MOHAN,
HON'BLE ACTG. PRESIDENT

SH. HEMANT KUMAR SARANGI
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant

Mr. Mohit Nandwani RP for COC/Applicant in
IA 999/21

Mr. I. P. S. Oberoi, Advocate for the RP

Mr. Saurabh Kalia and Adv Rakesh Wadhwa,
Adv. for the SRA

Mr. Hitendra Nath Rath, Adv. for Workman
And Employee

Mr. Gautam Singhal, Adv for Indian Overseas
Bank - Member COC / Applicant IA No. -
999/2021

Anju Thomas, Adv. (Counsel objecting to the
Resolution Plan-TPCODL)

Prasenjeet Mohapatra, Advocate for GST

Varsha Banerjee, Advocate. IA 1200/2018,
Respondent, Suspended Management

ORDER

IA-999/2021:-

This is an application filed by the Committee of Creditors constituting 100 % of the CoC, praying before this Bench for a direction to the respondent no. 1 i.e. the RP, to call a meeting of the CoC to invite and consider resolution plans of respondent no. 2 M/s. Hindustan Coals Limited, M/s.



Kalinga Enterprises Pvt. Ltd. and M/s. New Lakshmi Steel & Power Pvt. Ltd. or any other entity and also seeking additional time of 30 days for the applicant to consider and approve the most suitable plan. It is also further averred in the application that due to passage of time even considering the value of scrap, the value has doubled and if at all this resolution applicant is allowed to take over the unit, the public sector banks who are the constituents of the CoC, will lose heavily and in view of the same since there is a possibility of getting a better offer, the financial creditors had taken into consideration not to proceed with existing resolution plan but take one more chance so that a better offer can be placed. The counsel, appearing for the successful resolution applicant, submits that there is no scope for the CoC to reconsider the same once the plan is approved and improving of the value is not the question. In view of the fact that there is lot of passage of time and the approval of the plan has been delayed for various reasons and hence they should be given an opportunity to proceed and take over the unit. After hearing the submissions made by both the counsels, the legal point that arises here is that, whether the financial creditors who are the constituents of



the CoC, have the power or it is within their scope to withdraw a consent for the plan and try for other offers so that there is a maximization of value of the assets by inviting fresh offers. In view of the same, we are also of the considered view that the CoC is well within its powers to reject a plan, improve a plan and also withdraw a plan in their commercial wisdom and hence the decision on the part of the financial creditors to reconstitute the CoC and to construe better plans, is well within their powers and the same cannot be denied by this Bench. In view of the same this application is allowed and CoC is directed to consider fresh applications, fresh Expression of Interests from the prospective investors or companies and try their level best to maximize the value of the assets. In view of the same, the RP is directed to call for the CoC and consider proposals submitted by the CoC. We also further direct the RP to revalue the land, to go for fresh valuation of the land and machinery with a qualified person. Taking into consideration the present market value. The RP should exercise maximum care and caution in appointing the valuers and in case this Bench feels the valuation is not properly done, this Bench will not hesitate to order



valuation afresh under the supervision of this Tribunal, therefore, we reiterate that the valuation of the fixed assets and also tangible and intangible assets, shall be done with utmost care so that the exact market values are presented to the CoC.

The application stands disposed of.

All the pending applications be listed for hearing on 25.08.2021.



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(BHASKARA PANTULA MOHAN)
ACTG. PRESIDENT



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(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)

26.07.2021
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