

**IN THE NATIONAL COMPANY LAW TRIBUNAL AT  
ALLAHABAD BENCH**

**CP NO.(IB)70/ALD/2017 WITH CA NO.74/2018,**

*And*

**CP NO.(IB)71/ALD/2017 WITH CA NO.75/2018**

*(UNDER SECTION 33(1)(a) 7 OF THE  
INSOLVENCY & BANKRUPTCY  
CODE, 2016)*

**IN THE MATTER OF**

**BANK OF BARODA,**

A body corporate constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and having its Head Office at Suraj Plaza-1, Sayaji Ganj, Mandavi, Baroda – 390 020 and Corporate Office at Baroda Corporate Centre, Bandra Kurla Complex, Bandra (East), Mumbai – 400 051 and acting through its International Business Branch, with its office at 17/14, The Mall, Kanpur, Uttar Pradesh – 208 001, India.

..... **APPLICANT/FINANCIAL CREDITOR**

**VERSUS**

**ROTOMAC GLOBAL PVT. LTD.,**

A company incorporated under the laws of India with its registered office at 201 City Centre, Premises No.63/2, The Mall, Kanpur, Uttar Pradesh – 208 004, India.

..... **CORPORATE DEBTOR**

**AND**

**BANK OF BARODA,**

A body corporate constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and having its Head Office at Suraj Plaza-1, Sayaji Ganj, Mandavi, Baroda – 390 020 and Corporate Office at Baroda Corporate Centre, Bandra Kurla Complex, Bandra (East), Mumbai – 400 051 and acting through its International Business Branch, with its office at 17/14, The Mall, Kanpur, Uttar Pradesh – 208 001, India.

..... **APPLICANT/FINANCIAL CREDITOR**

**VERSUS**

**ROTOMAC EXPORTS PVT. LTD.,**

A company incorporated under the laws of India with its registered office at 201 City Centre, Premises No.63/2, The Mall, Kanpur, Uttar Pradesh – 208 004, India.

..... **CORPORATE DEBTOR**

sd —

sd —

**JUDGMENT/ORDER DELIVERED ON 23.03.2018**

**CORAM : SH. V.P SINGH, MEMBER (J)  
MS. SAROJ RAJWARE, MEMBER (T)**

**For the Resolution Professional: Sh. Shubham Agarwal, Advocate.**

**PER SE: SH. V.P. SINGH, MEMBER (J)**

**JUDGMENT/COMMON ORDER**

1. The present CA Nos.74/2018 & 75/2018 have been filed by the Resolution Professional under Section 33(1)(a) of the Insolvency & Bankruptcy Code, 2016 for initiation of liquidation process of Corporate Debtor Companies, i.e. Rotomac Global Private Limited and Rotomac Exports Private Limited respectively.
2. The applications CP Nos.70/ALD/2017 and 71/ALD/2017 was filed U/s 7 of the Insolvency & Bankruptcy Code, 2016 against the Corporate Debtor companies namely **M/s Rotomac Global Private Limited (being principal borrower) and M/s Rotomac Exports Private Limited respectively.**
3. The said petitions were admitted by order of this Tribunal dated 20.09.2017. After that, Sh. Anil Goel, Resolution Professional has filed the applications U/s 33(1)(a) of the I & B Code, 2016 seeking relief that the Corporate Debtor Companies be liquidated in the manner as laid down in Chapter III of the I & B Code, 2016, on failure of resolution plan within extended statutory period for limitation, i.e. 270 days. The Resolution Professional have stated in the applications that in the fourth meeting of the Committee of Creditors (COC) held

sd —

sd —

on 20.02.2018, it was discussed that there was a raid by the CBI on the Corporate Debtor upon the complaint filed by the Bank of Baroda after declaring the account as fraud. The Director of the Company could not attend the meeting as CBI raid was in progress and family members were not permitted to leave the premises. The action was initiated by the Enforcement Directorate against the Corporate Debtor and the promoters by invoking Prevention of Money Laundering Act. Resolution Professional also informed to the COC that period for Corporate Insolvency Resolution Process (CIRP) is due for completion on 19.03.2018, therefore, he recommended for extension of CIRP period by another 90 days, on the ground that the time left for completion for CIRP is very short for resolution of assets of Corporate Debtor. The matter was deliberated by COC considering ongoing investigation by CBI. The resolution for extension of CIRP was decided to be approved through E-voting, and the same was failed, as 96.08% COC voted as 'No' to the said resolution in a matter of *Rotomac Global Private Limited* and 97.01% of COC in *Rotomac Exports Private limited* voted against the Extension of CIRP. Copy of the minutes of the fourth meeting of COC is attached with the application as **Annexure – 7 and Annexure - 6 (in CA. No .74/2018 and CA. No.75/2018 respectively).**

4. It appears from the minutes of COC that resolution was regarding the extension of the period of CIRP period to be put to E-voting as per Section 12(3) of the Insolvency & Bankruptcy Code, 2016 for 90 days w.e.f 19.03.2018. The resolution was defeated by the COC with a vote

sd —

sd —

share of 96.08% and 97.01% respectively. Copy of attendance sheet of COC meeting is also annexed with the application, which shows that the COC with a vote share of 3.2% and 2.99% respectively supported the move for seeking extension of another 90 days for completion of resolution process, but 96.08% and 97.01% of COC respectively, voted against the move for seeking extension of 90 days for completion of CIRP.

5. Further, Section 33(1)(a) provides that before the expiry of CIRP or the maximum period for completion of CIRP U/s 12, if no resolution plan is received under sub-Section 6 of Section 30, or the Adjudicating Authority reject the resolution plan U/s 31 for noncompliance of the requirements therein, then the Adjudicating Authority has to pass an order for liquidation of the the Corporate Debtor.
6. In this case, the petition U/s 7 of I & B Code, 2016 was admitted against the Corporate Debtor by order dated 20.09.2017 and period of 180 days expired on 19.03.2018. The COC by the vote share of 96.08% and 97.01% has rejected the move for seeking an extension of another 90 days for completion of CIRP. In these circumstances, Corporate Debtor is to be liquidated in the manner prescribed under Chapter III of the I & B Code, 2016. Therefore, we pass the order of liquidation of the Corporate Debtor Companies namely **Rotomac Global Private Limited and Rotomac Exports Private Limited** by the provisions of Chapter III of the I & B Code, 2016.

sd —

sd —

Directions are being issued for public announcement stating that the Corporate Debtor is in liquidation.

- A. The moratorium passed U/s 14 shall cease to effect.
- B. The Registrar Designate is directed to send the copy of the order to ROC, by which the Corporate Debtor is registered. No suit or other legal proceedings should be initiated by or against the Corporate Debtor subject to Section 52 of the Code, provided that a suit and other legal proceedings may be instituted by the Liquidator on behalf of Corporate Debtor with the prior approval of the Adjudicating Authority.
- C. The approval of sub-section 5 of Section 33 shall not apply to a legal proceeding about the transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- D. The order of liquidation under this Section shall be deemed to be an intimation to discharge the Officers, employees and workers of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- E. Resolution Professional Sh. Anil Goel, who has been appointed in this case and whose appointment was confirmed by the COC is appointed as a Liquidator U/s 34 of the I & B Code, 2016. He shall act as a Liquidator for liquidation unless replaced by the Adjudicating Authority under sub-section 4 of Section 34. Liquidator Sh. Anil Goel, being assigned the charge of Liquidator shall be vested with all powers of the Board of Directors, Key managerial personnel and the Partners

sd —

sd —

of the Corporate Debtor whose powers shall cease to have an effect and shall be vested in the Liquidator.

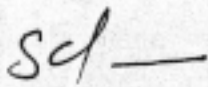
- F.** The personnel of the Corporate Debtor shall extend all assistance to the Liquidator as may be required in managing the affairs of the Corporate Debtor.
- G.** The resolution professional proposed to be appointed as a Liquidator, shall charge such fee for the conduct of the liquidation proceedings and in such proportion to the value of liquidation estate assets, as may be specified by the Board.
- H.** The fees for the conduct of liquidation proceedings under sub-section 8 of Section 34 shall be paid to the Liquidator from the proceeds of the liquidation Estate U/s 53 of the Code.
- I.** The Liquidator shall exercise all the powers and perform all the duties as specified U/s 35 of the I & B Code.
- J.** It is to be made clear that Committee of Financial Creditors including one representative from the Employees union will act as a member of the Monitoring Committee from whom Liquidator may take guidance in case of any need. However, it is also clarified that the Code has prescribed certain powers of Liquidator, in case of any need the liquidator may apply to the Adjudicating Authority for directions as may be necessary for the liquidation of the Corporate Debtor and to report the progress of the liquidation process in the manner as may be specified by the Board.

sd—

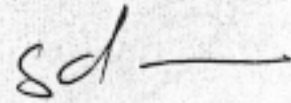
sd—

- K.** The Liquidator U/s 35(2) shall have the power to consult any of the stakeholder, entitled to distribution of proceeds in accordance with Section 53 of the Code. But any such consultation shall not be binding on the Liquidator. The records of any such consultation shall be made available to all other stakeholders not so consulted, in a manner specified by the Board.
- L.** Copy of the order shall be communicated to the Financial Creditor, Corporate Debtor, Official Liquidator by speed post and e-mail. Registrar to ensure that the copy of order is communicated to the proposed Liquidator through e-mail, in addition to the speed post.
- M.** Liquidator is directed to submit the progress report of liquidation process within 30 days.
- N.** The present CAs is disposed of accordingly.

**Dated:23.03.2018**



**SAROJ RAJWARE,  
MEMBER (T)**



**V.P. SINGH,  
MEMBER (J)**

Typed by:  
Kavya Prakash Srivastava  
(Stenographer)