

Date: 23/03/2018

To

The Chairperson (IBBI)
Insolvency and Bankruptcy
Board of India, 7th Floor Mayur
Bhawan, Shankar Market,
Cannaught Circus, New Delhi-211001

**Sub: A copy of the order dated 23.03.2018 in CP NO.(IB)55/ALD/2017 with
CA NO.73/2018.**

Sir,

I am directed to enclose herewith a copy of the order dated 23.03.2018 passed in the abovementioned case for your kind perusal and immediate compliance.

In this regard, I am further directed to say that as directed by the Hon'ble Bench in the said order, an experienced person may be appointed as a Liquidator in place of Mr. Anil Goyal who was acting as a Resolution Professional, in the above noted case.

Encl: Copy of the order
of the Tribunal
Dated: 23/03/2018

Yours faithfully

(S.A. Mehdi)

Dy. Registrar

Copy for information & immediate compliance to:

1. The Registrar of Companies, Kanpur
2. Sh. Anil Goyal, Resolution Professional

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

CP NO.(IB)55/ALD/2017 WITH CA NO.73/2018,

*Section 10 read with section
33(1(a) of the Insolvency &
Bankruptcy Code, 2016)*

IN THE MATTER OF

LML LIMITED,
A COMPANY INCORPORATED
UNDER THE COMPANIES ACT, 1956,
HAVING ITS REGISTERED OFFICE AT-
C-3 PANKI INDUSTRIAL ESTATE, SITE-I,
PANKI KANPUR – 208 022
UTTAR PRADESH.

..... CORPORATE DEBTOR/APPLICANT

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)

ORDER/JUDGMENT

1. The present CA No.73/2018 has been filed by the Resolution Professional (RP) Sh. Anil Goel U/s 33(1)(a) of the I & B Code, 2016 in connection with the CP No.55/ALD/2017. The company petition filed under Section 7 of the Insolvency and Bankruptcy code was admitted by order of this Tribunal dated 30.05.2017 and Sh. Anil Goel was appointed as RP for completion of Corporate Insolvency Resolution Process (herein from now on will be referred as CIRP). It is stated in the application that in the fourth meeting of Committee of Creditors (COC) which was convened on 14.11.2017 the Resolution



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Plan was presented by on behalf of Lohia Corp Limited through his representative the Price Waterhouse Coopers (PWC). In the circumstances, the COC passed the Resolution for seeking an extension of 90 days period for completion of the Resolution Plan beyond 180 days, which was finally approved by the order of the Adjudicating Authority dated 24.11.2017. The extended period for completion of CIRP, i.e. 90 days expired on 25.02.2018. During the period for completion of the resolution process, the RP convened the sixth meeting of COC on 02.02.2018, and final bids were taken from all five potential resolution applicants. Rimjhim Ispat Limited was declared the H1 bidder, and final bid amount was frozen. Resolution Plan was sent to all the members of COC for approval and intimation regarding the seventh meeting of COC via email dated 16.02.2017. After that, the Resolution Professional convened the seventh meeting of COC on 21.02.2017. The resolution for passing the Resolution Plan as submitted by Rimjhim Ispat Ltd. was put to the vote, as there was 100% attendance of the members of the COC. The Resolution Plan submitted by the Rimjhim Ispat Ltd. was rejected at the seventh meeting of the COC with the vote share of 78.40%. Copy of the minutes of the seventh meeting of COC held on 21.02.2018 and voting register is attached to the application as Annexure – 11 & 12 respectively.

2. It appears from the record that the COC with a voting share of 18.69% voted in support of the Resolution Plan and the COC with a voting share of 78.40% voted against the Resolution Plan submitted by the

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Rimjhim Ispat Ltd. The COC members with a voting share of 2.91% abstained from voting.

3. In these circumstances, the RP has submitted the report U/s 33(1)(a) of the I & B Code, 2016 for initiation of liquidation process against the Corporate Applicant/Corporate Debtor. Since the resolution plan submitted by Rimjhim Ispat Ltd. has not been approved by the committee of creditors, therefore, we hereby order for the liquidation of the corporate debtor LML Limited in the manner as laid down in Chapter III of Insolvency and Bankruptcy Code 2016.

4. In the present case, Mr Anil Goel, who has discharged his duties as Resolution Professional. He is also appointed the Liquidator in another two matters, i.e. *Rotomac Global Private Limited* (CA. No.74/2018) & *Rotomac Exports Private limited* (CA. No.75/2018).

In the case in hand, the Resolution Process was to be completed within the extended period of CIRP, by dated 25.02.2018. But the Resolution Professional failed to submit the progress report/the resolution plan within the statutory period i.e. 270 days. The Resolution Professional has filed this application on 19.03.2018, after the issuance of notice by order of this Tribunal dated 13.03.2018 for submission of progress report/Resolution Plan against him. The RP was also directed to remain present in the Court in person on 19.03.2018. The above act of the RP shows that he was not careful in following the timeline prescribed under the Insolvency and Bankruptcy Code. The statutory time limit to submit the Report/Resolution Plan was 25.02.2018. In these circumstances, we do not think it proper to appoint Mr. Anil

Goel as Liquidator in this case. We propose to make a reference to the



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Insolvency and Bankruptcy Board of India for sending the name of Liquidator suitable to perform the duties of the liquidator. It is pertinent to mention that Corporate Debtor LML Limited is a big company. Therefore, any experienced person can only be appointed as Liquidator. After the appointment of the Liquidator, he shall perform his duties as prescribed in Chapter III of the Insolvency and Bankruptcy Code. Mr Anil Goel, the Resolution professional, is directed to hand over all the documents to the Liquidator after his appointment.

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

- A. All the powers of the Board of Directors, Key managerial personnel and the Partners of the Corporate Debtor shall cease to have an effect, and all those powers shall be vested in the Liquidator.
- B. The liquidator is directed to issue a public announcement stating that the Corporate Debtor, LML Limited, is in liquidation.
- C. The Moratorium order passed U/s 14 shall cease to affect.
- D. The Registrar is directed to send the copy of the order to ROC, by which the Corporate Debtor is registered.
- E. Subject to Section 52, when liquidation order has been passed, no suit or other legal proceedings should be initiated by or against the Corporate Debtor.



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Provided that a suit or other legal proceedings may be instituted by the Liquidator on behalf of Corporate Debtor with prior approval of the Adjudicating Authority.

- F. The provision 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.
- G. The order of liquidation under this Section shall be deemed to be a notice of 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.
- H. 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.
- I. An insolvency 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.
- J. 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.
- K. The Liquidator shall exercise all the powers and perform all the duties as specified U/s 35 of the I & B Code.
- L. It is to be made clear that Corporate Debtor and Financial Creditors including one representative from the Employees union will act as a



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member of the Monitoring Committee from whom Liquidator may take guidance in case of any need.

- M. However, it is also to be clarified that the Code as 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.
- N. U/s 35(2) the Liquidator shall have the power to consult any of the stakeholder, entitled to distribution of proceeds by Section 53 of the Code.

Provides that any such consultation shall not be binding on the Liquidator.

Provided further that the records of any such consultation shall be made available to all other stakeholders not so consulted, in a manner specified by the Board.

- O. Copy of the order may be communicated to the Financial Creditor, Corporate Debtor, Official Liquidator, the Insolvency and Bankruptcy Board of India by speed post and e-mail. The Registrar is to ensure the compliance of the order of this Tribunal.

The present CAs is disposed of accordingly.

Dated: 23.03.2018

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SAROJ RAJWARE,
MEMBER (T)

Typed by:
Kavya Prakash Srivastava
(Stenographer)

FREE OF COST COPY

Ravinder Kumar
26/03/2018
Ravinder Kumar
Bench Officer
National Company Law Tribunal

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V.P. SINGH,
MEMBER (J)

