IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

C.P.(IB)- 1399/(MB)/2017
MA 2326/2019, MA 2124/2019

CORAM: SHRI RAJESH SHARMA
MEMBER (T)

SHRI BHASKARA PANTULA MOHAN
MEMBER (J)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 05.12.2019

NAME OF THE PARTIES: Bank Of India
V/s
Mandhana Industries Limited

Section 7 of Insolvency & Bankruptcy Code 2016.

ORDER

140. **MA 2326/2019, MA 2124/2019 In C.P.(IB)-1399(MB)/2017**

Heard the Counsel representing the successful Resolution Applicant and the CoC as well as the erstwhile RP.

There are three applications before us, one claiming the CIRP costs and another filed by the successful Resolution Applicant challenging the resolution plan on the ground that the entire information has not been provided to them for complying with the terms and conditions of the resolution plan. The other application filed by the Bank of Baroda on behalf of the consortium as among various other things to seek possession of the undertaking and handover it to the third party with proper maintenance and to see that the value of the asset is not depleted.

On the earlier occasions when the matter was heard, the suggestion was made by this Bench to the successful Resolution Applicant whether they be in a position to handover the possession of the undertaking back to CoC in view their application challenging the very resolution plan itself.

Ld. Sr. Counsel for the successful Resolution Applicant had made it clear that they have no objection to handover the possession of the undertaking back to the CoC without prejudice to the rights and contentions.

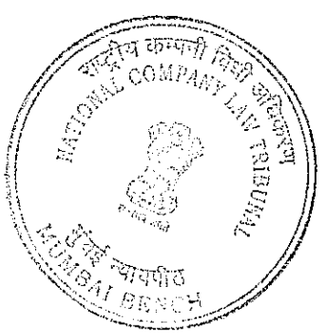
Ld. Sr. Counsel representing the Banks also contends that the unit has been handed over to the Successful Resolution Applicant on "as is where is" condition and all the information that was required to be provided has already been provided and the successful Resolution Applicant had defaulted in making the payments as per the resolution plan.

In view of the allegations and counter allegations made against both the parties, a separate hearing is required to decide the merits of each application. In the meanwhile, as an interim measure, it is prudent on the part of this Bench, after going through an elaborate discussion during the course of the hearing, that the possession be handed over to the CoC, who in turn will handover the same to the erstwhile RP.

Therefore, we hereby order that the successful Resolution Applicant shall hand over the possession to the CoC, after an independent agency or a person takes the inventory and examine the status and the working condition of the machines and then the CoC, in turn shall handover the same to erstwhile RP. The entire process of taking inventory and handing over the possession shall be video graphed and shall be taken in the presence of both the parties.

For this purpose, we hereby order the restoration of the CIRP and the erstwhile RP shall continue as RP henceforth.

All the privileges, rights available to the RP under the CIRP under Section 14 mutatis mutandis shall be applicable until the proper decision is taken in this regard.



It is for the CoC and RP to decide whether they run the undertaking or handover to the third party.

We hereby direct the CoC and the RP to exercise maximum prudence and see that the value of the asset is not depleted and production is also continued and the unit runs as a going concern, so that the workers, employees and all the stakeholder's interest is protected.

List all the MAs for further consideration on 3.2.2020.

Sd/-
RAJESH SHARMA
Member (Technical)

Sd/-
BHASKARA PANTULA MOHAN
Member (Judicial)

राष्ट्रीय कम्पनी विधि अधिकरण
NATIONAL COMPANY LAW TRIBUNAL
मुंबई न्यायपीठ
MUMBAI BENCH

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On 12/12/2019
Assistant Registrar
National Company Law Tribunal Mumbai Bench