

DIVISION BENCH

Sl.No.K-9

NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

IA(IB) No. 1193/KB/2020 In
CP(IB)No.182/KB/2017

Present: 1. Hon'ble Member(J), Shri Rajasekhar V.K.
2. Hon'ble Member (T), Shri H.C. Suri

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 18th NOVEMBER,
2020, 10:30 A.M**

Name of the Company	Gujrat NRE Coke Ltd.		
Under Section	60(5) 10 IBC		
Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date

Counsel /Pr.CS/Pr.CA appeared through Video Conferencing:

1. Mr. Debu Chowdhury, Advocate

1. Mr. Shaunak Mitra, Advocate] For the Applicant
2. Mr. Arindam Paul, Advocate]

1. Mr. Krishnaraj Thaker, Advocate] For the Liquidator/Respondent
2. Ms. Ujjaini Chatterjee, Advocate]
3. Mr. Sumit Binani]

ORDER

Mr. Shaunak Mitra, Ld. Counsel alongwith Mr. Arindam Paul, Ld. Counsel is present on behalf of the applicant. Mr. Krishnaraj Thaker, Ld. Counsel alongwith Ms. Ujjaini Chatterjee, Ld. Counsel is present on behalf of the Respondent. Mr. Sumit Binani, Liquidator is present in person.

2. This is an application filed by four employees of the Corporate Debtor/ Liquidator, *inter alia*, seeking the following prayers:

(a) *To amend/recall the Order dated 25.09.2020 passed by this Ld. Tribunal to the extent the same is not in violation of Order dated 24.02.2020 passed by Supreme Court;*

(b) To Issue directions to the Liquidator/Respondent to maintain the status of Corporate Debtor in Liquidation as a Going Concern;

(c) To stay the operation of the E-Auction Advertisement dated 29th October, 2020 issued by the Liquidator/ Respondent till the pendency of the instant Application;

(d) To direct the respondents and all persons and entities working under the instructions of the respondent not to take any steps in furtherance of the E-Auction Advertisement till disposal of this Application;

(e) Ad-interim orders in terms of prayers (c) and (d) above;

3. Mr. Shaunak Mitra, Ld. Counsel, appearing for the applicants submits that in so far as prayer (a) is concerned, the order dated 25.09.2020, which reads as follows, has been passed without regard to the order dated 24.02.2020 of the Hon'ble Supreme Court at page 52 of the application.

"1. Ld. Counsel for the Liquidator appeared. Ld. Counsel for the applicant in IA(IB) No.865/KB/2020 and respondent in IA(IB) No.660/KB/2020 appeared.

2. Heard the Ld. Counsel for the applicant in IA(IB) No.865/KB/2020 as well as the Ld. Counsel for the Liquidator.

3. We direct the Liquidator to complete the process of liquidation of the Corporate Debtor and pay dues of all stakeholders according to their proportion including the workers.

4. Matter stands adjourned to 09/11/2020.

5. Registry is directed to send e-mail copy of the order forthwith to all the parties inclusive of the Counsel."

4. The Hon'ble Supreme Court vide order dated 24.02.2020 has directed that during the pendency of the appeal, bearing Civil Appeal No.9664/2019 before the Hon'ble Court, **"proceedings may go on only and sales, if any, will not be confirmed."**

5. Para 3 of the order dated 25.09.2020, “We direct the Liquidator to complete the process of liquidation of the corporate debtor and pay dues of all stakeholders, according to their proportion including the workers.”

6. The Hon’ble NCLAT in its order dated 28.10.2020 in Company Appeal (AT) No.933 of 2020 has stated as follows:

“We are not expressing any view in regard to the impugned order dated 25.09.2020 passed by the Learned Tribunal, Kolkata bench/Kolkata. However, if Learned Tribunal considers that the impugned Order is not in conformity with the order passed by Hon’ble Supreme Court which is referred above then the Tribunal should recall the impugned order and pass appropriate orders in conformity with the order passed by the Hon’ble Supreme Court.”

7. Ld. Counsel for the Liquidator submits that in response to the earlier advertisement dated 29.10.2020, no dues have been received on the last date, i.e. 17.11.2020, and that a fresh notice will have to be issued.

8. In obedience to the orders of the Hon’ble Supreme Court and the Hon’ble NCLAT referred to above, this Bench directs that para 3 of the order dated 25.09.2020 shall be read as follows:

“We direct the Liquidator to take further proceedings in the matter of liquidation of the corporate debtor. Sale Notice may be published. However, before finalising the sale, necessary orders will be sought from the Hon’ble Supreme Court. The sale advertisement to be issued in this regard by the Liquidator shall make this aspect absolutely clear so that prospective purchasers are put on the adequate notice.

Order dated 25.09.2020 shall stand recalled/amended to this extent.”

9. In so far as other prayers are concerned, the Liquidator is directed to file a reply within seven days from today positively with a copy served on the Counsel for the applicants.

10. List this matter for hearing on 11.12,2020.

(Harish Chander Suri)
Member (Technical)

(Rajasekhar V.K.)
Member (Judicial)