



IN THE NATIONAL COMPANY LAW TRIBUNAL

DIVISION BENCH, COURT NO.I

KOLKATA

I.A NO. 723/KB/2022

In

C.P (IB) NO. 557/KB/2017

***An Application under Section 33(3) and 60(5) of the Insolvency and
Bankruptcy Code, 2016***

IN THE MATTER OF:

Goutam Kumar Roy

... Operational Creditor

And

Dooteriah & Kalej Valley Tea Estates Private Limited

... Corporate Debtor

And

IN THE MATTER OF:

UCO Bank

... Financial Creditor/ Applicant

Versus

1. Fortune Chemicals Limited

... Respondent no. 1

**2. Mr. Samya Sengupta, Resolution Professional of Dooteriah & Kalej
Valley Tea Estates Private Limited**

... Respondent No. 2



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Date of Pronouncement: 17th October, 2025

Coram:

Shri Bidisha Banerjee : **Member (Judicial)**
Cmde Siddharth Mishra, : **Member (Technical)**

Appearance:

For UCO Bank: **Ms. Manju Bhuteria, Sr. Adv.**
Mr. Rahul Auddy, Adv.
Mr. Aditya Gooptu, Adv.

For Respondent No. 1: **Mr. Aishwarya Kumar Awasthi, Adv.**

ORDER

Per: Cmde Siddharth Mishra, Member (Technical)

1. The court congregated through physical mode.
2. Heard the Ld. Counsels of both the parties.
3. The present application has been filed by **UCO Bank**, hereinafter referred to as the '**Financial Creditor/FC**' against Fortune Chemicals Limited, hereinafter referred to as the **Respondent No. 1** and Mr. Samya Sengupta, Resolution Professional of Dooteriah & Kalej Valley Tea Estates Private Limited, the **Proforma Respondent No. 2** under section Section 33(3) and 60(5) of the Insolvency and Bankruptcy Code, 2016 to seek the following reliefs:-



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- a) Recalling of the order dated 26th September 2018 approving the Revised Resolution Plan dated 13th September 2018 of the Respondent no. 1;*
- b) Declaration of rendering Revised Resolution Plan dated the 13th September 2018 of the Respondent no. 1 as ineffective;*
- c) Liquidation of the Corporate Debtor under the relevant provisions of the Code;*
- d) Appointment of a Liquidator for commencing the Liquidation process of the Corporate Debtor;*
- e) Black listing or banning the Respondent No. 1 and its directors and group companies, affiliates from participating in any CIRP process of any Companies;*
- f) Such other order/s as this Hon'ble Tribunal may deem fit and necessary*

SUBMISSIONS OF THE LD. COUNSEL ON BEHALF OF THE APPLICANT

4. It is submitted that the Corporate Debtor was admitted to Corporate Insolvency Resolution Process ("CIRP") on 12th December, 2017, thereafter the Proforma Respondent No. 2, Mr. Samya Sengupta, was appointed as the Resolution Professional of the Corporate Debtor.

5. That Respondent no. 1 had submitted a Resolution Plan dated 10th August, 2018 which was placed before the COC and was approved with 100% approval. This Tribunal observe that the priority of payment to workmen was overlooked in the said Resolution Plan. Pursuant to the observation of this Hon'ble



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Tribunal, Respondent No. 1 submitted a Revised Resolution Plan dated 13th September, 2018. By an order dated 26th September, 2018, the said revised resolution plan was approved by this Tribunal (Page 20 to 27 of the Application).

6. The total outstanding dues to the Applicant was Rs. 15.69 crores as on the CIRP commencement date and Rs. 1.51 crore on account of interest accrued after initiation of CIRP (mentioned at Pg 48)

7. In terms of the said Revised Resolution Plan, the Respondent No. 1 was supposed to pay a sum of Rs. 1.5 crores within 90 days from approval of the Resolution Plan (at Pg 60 of Rejoinder), i.e., within 26th December, 2018 however Respondent No. 1 failed and neglected to pay the same.

8. Thereafter the Applicant by its notice dated 8th February, 2019 (at Pg 28 to 29 of the Application) called upon Respondent no. 1 to comply with the said order dated 26th September, 2018 and pay the requisite sum to the Applicant.

9. Respondent no. 1 issued a letter dated 26th February, 2019 (At Pg 30 to 35 of the Application) inter alia stating that the resolution plan was dependant on renewal of lease of the tea estate and in absence of the renewal of the said lease, the Respondent No.1 was unable to implement the said Resolution Plan. Thereafter, by its letter dated 4th March, 2019 the Applicant replied to the said letter denying all such applications.

10. It is submitted that the above contentions of the Respondent No. 1 is untrue and contrary to the records. The Information Memorandum of the Corporate Debtor (at Pg 109 to 125 of the Rejoinder, relevant at Pg 112) clearly mentions that the three gardens are on lease from Government of West Bengal and the renewal is pending since 1986. The said tea gardens belong to the



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Government of West Bengal and as such only it can decide upon the renewal of lease of the tea gardens and not the Applicant.

11. In the 4th Meeting of the Monitoring Committee held on 15th January, 2021 Respondent No. 1 proposed to pay an upfront amount of Rs. 7.9 crores as full and final settlement of the dues of the Applicant within 90 days from the approval of the modification of the Resolution Plan. However Respondent No.1 failed to submit the proposed revised resolution plan despite multiple reminders and the same would be evident from the email dated April 7, 2021 issued by Respondent No. 2 at Pg 66 of the Application.

12. In the 5th Meeting of the Monitoring Committee held on 15th September, 2021 (At Pg 46 of the Reply Affidavit), Respondent No. 1 requested for further time to submit detailed proposal regarding revised payment to the Applicant while keeping its payment obligations to other parties unchanged. by an email dated 22nd September, 2021 (at Pg 76 of the Application) requested time till submission of revised plan till 5th October, 2021. But Respondent No. 1 has till date failed to submit any proposal regarding revised payment to the Applicant despite multiple reminders and extensions.

13. That in the 6th Meeting of the Monitoring Committee held on 16th June, 2022 (At Pg 78 to 80), the representative of the Applicant stated that despite expiry of 3 years and 263 days from the passing of the order dated 26th September, 2018, no steps had been taken by Respondent No.1 to implement the Resolution Plan and as such the Applicant had decided to initiate Liquidation Proceedings of the Corporate Debtor. The decision dated 16th June, 2022 was also forwarded by the Applicant to Respondent No. 1 by an email dated 20th June, 2022 (at Pg 81 to 84 of the Application).



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14. It is submitted that there is no alternative but to pass orders for liquidation of the Corporate Debtor under Section 33 of IBC. Reliance is placed on the judgement of ***Kridhan Infrastructure Pvt Ltd v Venkatesan Sankaranarayan & Ors*** reported in **(2021) 6 SCC 94** where in similar facts and circumstances, the Hon'ble Apex Court upheld the order of liquidation passed by the Hon'ble NCLT due to the failure of the Resolution Applicant in implementing the Resolution Plan. The Hon'ble Supreme Court observed in Paragraph 11 of the said judgment that time is a crucial facet of the scheme under the IBC.

15. Further reliance has also been placed on the judgement of the Apex Court in ***State Bank Of India & Ors v The Consortium Of Mr. Murari Lal Jalan And Mr. Florian Fritsch & Anr having Civil Appeal Nos. 5023-5024 of 2024*** wherein it has been held where in similar facts and circumstances, the Hon'ble Apex Court upheld the order of liquidation passed by the Hon'ble NCLT due to the failure of the Resolution Applicant in implementing the Resolution Plan. The Hon'ble Supreme Court observed in Paragraphs 125, 141 to 149, 186 and 187 of the said judgment of the consequences of non-implementation of a Resolution Plan by a Resolution Applicant in a timely manner.

SUBMISSIONS OF THE LD. COUNSEL ON BEHALF OF THE RESPONDENT

16. In paragraph 8(4) of the application it has been admitted that only one resolution plan was received by the Resolution Professional being the resolution plan of the respondent No. 1/successful resolution applicant (SRA).

17. The said resolution plan of the applicant was approved with 100% majority and that that there was only one member of the CoC being the UCO Bank.



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18. The resolution plan submitted by the respondent No.1 was approved by the CoC at its 11th meeting held on 31 August 2018. However, inasmuch as the priority of payment to the workmen had been overlooked by the said plan a modified plan was filed by the respondent No.1 on 13th September 2018 which was approved by the CoC with 100% voting on 14th September 2018.

19. In paragraph 8(13) of the said application it has been contended that the Committee of Creditors by a notice dated 8th February 2019 had called upon the respondent No.1 to perform its obligations under the resolution plan and to make payment. It, however, transpires that the decision of the CoC to send the Corporate Debtor to liquidation was taken on 16 June 2022 i.e. about more than three and half years after the alleged failure on the part of the respondent. No.1 to honour its payment obligation.

20. That there is no explanation by the applicant with regard to the delay on the part of the applicant and/or the Resolution Professional and/or the Monitoring Committee in filing this application three and half years after the alleged date of default in making payment under the said resolution plan.

21. The applicant SRA admitted that the respondent No.1 had demanded renewal of the lease of the tea gardens as a condition precedent for performance of its obligations under the said plan. In this regard it is stated that unless the lease in respect of the said tea gardens were renewed there would be absolutely no justification in implementing the resolution plan inasmuch as the lease in respect of the said three tea gardens was sine qua non to the revival and/or rehabilitation of the corporate debtor.

22. The order dated 11th July, 2019 passed by this Tribunal provides as follows:



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"Therefore, District Magistrate is hereby directed to put in possession the successful Resolution Applicant to the assets of the Corporate Debtor and allow him to manage the affairs of the Corporate Debtor, failing which the successful Resolution Applicant is free to take necessary action against the District Magistrate."

23. It is submitted that inspite of making continuous representation in this regard to the CoC, IRP and Monitoring Committee, there was no step taken by them and hence the Respondent No. 1 approached the tribunal by way of I.A No. 249 of 2019.

24. That it is apparent from the minutes of the meeting that the Committee of Creditors / Resolution Professional /Monitoring Committee had acknowledged and admitted the defaults and/or failures of its part in making over possession in time, in renewing the leases of the tea gardens, in preventing pilferage of plant & machinery and in protecting and safeguarding the assets from fire and consequently agreed to a revision of the resolution plan submitted by the respondent No.1.

25. It is submitted that the minutes of the meetings will demonstrate that there has been complete waiver by the Committee of Creditors / Resolution Professional / Monitoring Committee with regard to the quantum and time of the amounts payable under the resolution plan plan.

26. By several letters the respondent No. I has repeatedly called upon the Committee of Creditors / Resolution Professional /Monitoring Committee to:-



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i. Make over possession

ii. Renew the Lease Deeds in question.

iii. Hold a joint inspection so that the plant & machinery and movables available at site tally with the list of such plant & machinery and movables as provided in the Information Memorandum and/or in the Sale Notice.

iv Take necessary steps for protection of the assets and to take stock of the fire that had taken place at the said tea gardens.

Copies of the said letters are hereto annexed and collectively marked as Annexure D.

27. That at the time of submitting its bid the respondent No. 1 has paid a sum of Rs. 5 Lakhs towards Earnest Money Deposit (EMD). The respondent no. 1 has in total paid a sum of Rs. 75,00,000/- into the account of the corporate debtor.

28. The respondent No.1 was and is ready and willing to perform its obligations under the said resolution plan. The respondent No. 1, however, states and submits that the bank itself having called upon the respondent No.1 to submit a revised resolution plan.

29. The respondent No.1, in pursuance of the direction of the Committee of Creditors / Resolution Professional / Monitoring Committee had duly prepared a revised resolution plan which however the Committee of Creditors/ Resolution



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Professional /Monitoring Committee subsequently refused to accept by reason of a minor delay in submitting the same.

30. That the contents of the demand notice dated 8th February 2019 are false, untrue and incorrect. The said demand notice dated 8th February 2019 has been duly replied to by the letter of the respondent No.1 dated 26th February 2019. It has been denied that the respondent No.1 for the first time by its said letter dated 26th February 2019 contended that the enforcement of the entire resolution plan upon the renewal of the lease of the said tea gardens. it has always been the contention of the respondent No.1 that the renewal of the lease of the tea gardens was sine qua non to the performance by the respondent No.1 of its obligations under the resolution plan.

31. That the proposal for reduction of payment of Rs.15.69 Crores to Rs.7.90 Crores was reasonable having regard inter alia to the diminution in the value of the movable and immovable assets and properties of the corporate debtor by reason of non-renewal of the lease, failure to give possession, pilferage of the plant and machinery and fire which had taken place. It is admitted in paragraphs 21 of the application that having regard to the losses actually suffered by the No.1, without there being any default on the part of the Respondent No. 1, the Committee of Creditors / Resolution Professional/Monitoring Committee agreed to the submission of the revised proposal by the respondent No.1.

32. Heard the Ld. Counsels of both the parties and perused the documents on record.



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ANALYSIS AND FINDINGS

33. We note that despite multiple opportunities and time extensions, Respondent No. 1 has failed to meet the obligations under the Revised Resolution Plan approved by this Tribunal.

34. The failure to implement the approved resolution plan in a timely manner constitutes a clear violation of the objectives and timelines set under the Insolvency and Bankruptcy Code, 2016.

35. At this juncture we would like to refer to the decision of the Hon'ble Supreme Court in **Kridhan Infrastructure Pvt. Ltd. v. Venkatesan Sankaranarayan & Ors.** reported in **(2021) 6 SCC 94** where it was held that:

“11. The appellant has been unable to raise the funds. The fact of the matter, as it emerges from Mr Vishwanathan's submissions, is that the appellant will be unable to raise funds from the Term Lenders who are insisting that the status of the Company should change from a company under liquidation to an active status. The order of liquidation has not been set aside. Ultimately, what the request of the appellant reduces itself to, is that it would raise funds on a mortgage of the assets of the Company and unless the Company is brought out of liquidation, it would not be in a position to raise the funds. This is unacceptable. At this stage, the order of liquidation has only been stayed, but a final view was, thus, to be taken by this Court. Sufficient opportunities were granted to the appellant earlier during the pendency of the proceedings both before the NCLT and NCLAT. The orders of the NCLT and NCLAT make it abundantly clear that despite the grant of sufficient time,



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*the appellant has not been able to comply with the terms of the Resolution Plan. Since 9 October 2020, despite the passage of almost five months, the appellant has not been able to deposit an amount of Rs 50 crores. **Time is a crucial facet of the scheme under the IBC. To allow such proceedings to lapse into an indefinite delay will plainly defeat the object of the statute. A good faith effort to resolve a corporate insolvency is a preferred course, However a resolution applicant must be fair in its dealings as well.** The appellant has failed to abide by its obligations. In that view of the matter, we see no reason or justification to entertain the Civil Appeal any further. The consequence envisaged under the order of this Court shall accordingly ensue in terms of the forfeiture of the amount of Rs 20 crores. As a consequence of this order, the management shall revert to the liquidator for taking steps in accordance with law. The Civil Appeal is accordingly dismissed”.*

36. We would also refer to the decision of **State Bank of India & Ors. v. The Consortium of Mr. Murari Lal Jalan and Mr. Florian Fritsch** (Civil Appeal Nos. 5023-5024 of 2024) where it held

*“187. In the peculiar and alarming circumstances as discussed in this judgment and also keeping in mind the fact that almost **five years have elapsed since the Resolution Plan was duly approved by the NCLAT and there being no progress worth the name, we are left with no other option but to invoke our jurisdiction***



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under Article 142 of the Constitution and direct that the Corporate Debtor be taken in liquidation. *The NCLT, Mumbai shall now take appropriate steps for appointment of liquidator and all other necessary formalities for commencement of liquidation of the Corporate Debtor”.*

37. We take note of the fact that the Ld. Counsel appearing for Fortune Chemicals Ltd. submitted that he has no objection for the prayer of liquidation in this application.

38. In view of the submissions and findings, we pass the following orders:-

- i. The order dated 26th September, 2018 approving the Resolution Plan dated 13th September 2018, stands recalled
- ii. The Revised Resolution Plan dated 13th September 2018 is declared ineffective and void.
- iii. The Corporate Debtor Dooteriah and Kalej Valley Tea Estate Private Limited is hereby ordered to be liquidated under the provisions of Section 33 of the I&B Code.

39. This Bench, therefore, hereby orders as follows: -

a. Prayers as sought for in I.A. (I.B.C) No. 732/KB/2022 is allowed and Dooteriah and Kalej Valley Tea Estate Private Limited, the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code;

b. **Mr. Sanjeev Jhunjunwala, Phone No. 9831248361**, having **Registration Number. IBBI/IPA-001/IP-P00325/2017-18/10595** , is hereby appointed as



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Liquidator is hereby appointed as Liquidator as provided under section 34(1) of the Code subject to a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which she is a professional member,

c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

d. Public Notice shall be issued in the newspapers stating that the Corporate Debtor is in liquidation.

e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.

f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor

g. On initiation of the liquidation process but subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.

h. In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of



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the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.

i. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, within whose jurisdiction the Corporate Applicant is registered.

40. The application bearing **I.A (IB) NO. 723/KB/2022** shall stand **disposed of** in accordance with the above directions.

41. List the main C.P (IB) No. 557/KB/2017 for reporting progress on 26.11.2025

42. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.

43. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Cmde Siddharth Mishra
Member (Technical)

Bidisha Banerjee
Member (Judicial)

This Order is signed on this, the 17th Day of October, 2025

Oindrila, K. (LRA)