

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

C.P. (IB)/891(KB)2020
IA(I.B.C)/1664(KB)2022

**CORAM: 1. HON'BLE MEMBER(J), SHRI ROHIT KAPOOR.
2. HON'BLE MEMBER(T), SHRI BALRAJ JOSHI**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 28TH DECEMBER, 2022, 10:30 A.M

IN THE MATTER OF	BANK OF INDIA VS MCNALLY BHARAT ENGINEERING COMPANY LIMITED
UNDER SECTION	IBC UNDER SEC 7

Appearances (via video conferencing/physical)

Ms. Manju Bhuteria, Adv. : For Applicant in IA 1604/2022
Mr. Sidhartha Sharma, Adv.
Mr. Arjun Asthana, Adv.
Ms. Shalini Basu, Adv.
Mr. Aman Kataruka, Adv.

Ms. Sweta Dubey, Adv. : For Respondent /Resolution professional
Ms. Kanishka Prasad, Adv. in IA 1664/2022
Ms. Ichchha Kalash, Adv.

Mr. Dipankar Das, Adv. : For Bank of India
Ms. Sanjana Nandi, Adv.

ORDER

1. Ld. Counsel for the parties present.
2. **IA(I.B.C)/1664(KB)2022**
 - i. This IA has been filed seeking direction to submit Resolution Plan within three days and also the direction to respondent No. 2 to consider the resolution applicant and till then stay the voting or finalization of Resolution Plan of any prospective resolution applicant.
 - ii. It is an admitted position Form-G was issued on 5th of July, 2022 and last date of submission of Resolution Plan was 5th of December, 2022. While

seeking reliefs in the present application, applicant has contended in paragraph 3 it was only on 17th of December, 2022 pursuant to which applicant came to know about CIRP process and through an e-mail on the same date asked for participation in the CIRP.

- iii. This request was declined by the RP page 17 stating that the applicant did not respond to EIO and did not participate in the resolution process.
- iv. When this matter was being considered today, it is informed by Ld. Counsel appearing for RP that three plans have been received which are under consideration. It is also an admitted position when bids were invited on 5th of July, 2022 publication was made in newspapers besides putting it on the website of IBBI as well as on the website of the Corporate Debtor. Once the publication is made, presumption is applicant knew about it along with others. However, he did not respond to the bidding process and now it is too late.
- v. Keeping in view the significance of timelines prescribed by law to achieve the objective of maximization of value of assets, we do not find the plea of applicant of inadvertence or otherwise not having the knowledge of issuance of Form-G is correct or tenable under law.
- vi. For the above reasons, we do not find any merit in this application and the same is, therefore, **rejected**.
- vii. It is stated by Ld. Counsel for RP Form-G was published in 'Financial Express' and 'Ek Din' vide its publications dated 5th of July, 2022.

3. Post this CP on **16/01/2023**.

Balraj Joshi
Member (Technical)

Rohit Kapoor
Member (Judicial)