



**INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA**

Casebook Issue 43:
Insolvency Tale of
Divya Jyoti Sponge
Iron Private Limited

**INSOLVENCY
UNCOVERED**

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About Divya Jyoti Sponge Iron Private Limited ¹

Divya Jyoti Sponge Iron Private Limited was incorporated on 06 June 2003. It is classified as Non-govt company and is registered at Registrar of Companies, Kolkata. As per MCA records, company is registered at 37 Shakespeare Sarani; S.B. Towers; 3rd Floor; Kolkata; Kolkata; West Bengal; 700017; India Its authorized share capital is Rs. 130,000,000 and its paid up capital is Rs. 129,800,000.

As per MCA and other Industry classification records, the main line of business is Manufacture Of Basic Metals It is involved in Manufacture of Basic Iron & Steel.

Divya Jyoti Sponge Iron Private Limited's Annual General Meeting (AGM) was last held on 30 September 2019 and as per records from Ministry of Corporate Affairs (MCA), its balance sheet was last filed on 31 March 2019. The total registered charges of company stands at ₹61,56,78,382.87 (₹61.57 Cr) (4 Charges) out of which, charges amounting ₹0.00 are still open and ₹61.57 Cr (4Charges) are Satisfied and Closed.

Directors of the Company are Naresh Kumar Sharma and Shyam Bihari Makharia. The company had 5 Directors in the past, who have already resigned, on various dates.

Major Financial Creditors/Bankers

Punjab National Bank was among the major creditors of Divya Jyoti Sponge Iron Private Limited.

CIRP of Divya Jyoti Sponge Iron Private Limited

Initiation of CIRP

CIRP of Divya Jyoti Sponge Iron Private Limited (CD) was initiated by Punjab National Bank, Financial Creditor via application in Form 1 as provided under section 7 of the Code read with Rule 4 of the Insolvency and Bankruptcy Code (Application to Adjudicating Authority) Rules, 2016

Appointment of IRP

The application for initiation of CIRP was accepted by Adjudicating Authority (AA) vide order dated 23.08.2017, Mr. Arun Kumar Gupta was appointed as Interim Resolution Professional by the AA. The AA further directed the CIRP to proceed as per the timeline and imposed moratorium on the CD.

Completion of CIRP

After eight meetings of COC and consolidation of all the claims received from the financial and operational creditors and after due deliberation of expression of interest submitted by the resolution applicant, a plan was finally approved by CoC and it is that resolution plan, submitted before this bench on 19.02.2018 i.e. on the 180th day of resolution.

Appeal against the approved Resolution Plan by CoC

When the Resolution Plan came up before this Bench for approval, two other resolution applicants whose claims were rejected by the CoC filed applications

challenging the resolution plan approved by the CoC [CA (IB) No. 172 of 2018] filed by one of the resolution applicants i.e. Omkara Infraprojects Private Limited raising serious allegations against the Resolution Professional that he has committed so many irregularities in the consideration of approval of Resolution Plan by the CoC. The resolution professional has violated the confidentiality of the decisions of the CoC meeting and disclosed the bid amount submitted by the resolution applicant M/s Omkara Infrastructure Private Limited to other applicant and thereby managed to get highest bid from the Resolution applicant whose Resolution Plan has been approved. It is further alleged that the resolution applicant was informed of approval of its Resolution Plan by the CoC in the meeting convened on 2 February, 2018. But to its surprise the plan submitted for the approval before this Bench is not the resolution plan of the applicant in this CA and hence filed the CA for re consideration of the plan of the applicant in the CA.


One another application CA (IB) No 205/KB/ 2018, was filed by Mr Prakash Jain of Simplex Credits and Industries Ltd raising objections that the expression of interest submitted by him was not accepted by the resolution professional citing delay in submission and that resolution professional accepted other applicants plan even after there was delay in the submission by such parties and therefore there is discrimination in rejecting his plan. Upon the said allegations he prays for issuing directions to the Resolution Professional to accept the expression of interest of the resolution applicant and to further direct him to make over the information Memorandum to the CoC and prayed for extension of the period CIRP for re consideration of the Resolution Plan by the CoC.


Approval of Resolution Plan by AA ²


It was noted by the AA that resolution plan submitted by COC meets all the criteria of subsection (2) of section 30 of IBC. Further, it was noted that CoC had held discussions with all the resolution application and after deliberations, CoC decided to obtain their higher authorities consent for the approval of the plan.


In view of the rejection of resolution plan submitted by the applicants in both CAS supported by reasons it appears to me that both the application requires no consideration at the tag end of final hearing of the CP in respect of approval of the resolution plan More over right of rejection of approval of a plan is with the CoC What can be screened is whether the plan approved by the CoC meets the requirements as referred to in sub section (2) of section 30 of the 188 Code If all the requirements are satisfied the Bench shall pass an order for approval That being said appears to me that the Bench cannot reopen the reasons for rejection of plan passed with 100% voting share for adjudication.


Timeline

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- 06.06.2003
 - Incorporation of Divya Jyoti Sponge Iron Private Limited

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- 23.08.2017
 - Initiation of CIRP
 - Appointment of Mr. Arun Kumar Gupta as IRP

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- 24.10.2017
 - Appointment of IPR as RP

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- 19.02.2018
 - Submission of Resolution Plan before NCLT

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- 13.03.2018
 - Resolution Plan Approved by NCLT

Bibliography

1. <http://www.mca.gov.in/mcafoportal/companyLLPMasterData.do>
2. [https://ibbi.gov.in/webadmin/pdf/order/2018/Mar/13th%20Mar%202018%20in%20the%20matter%20of%20Divya%20jyoti%20Sponge%20Iron%20Private%20Limited%20C.P%20\(IB\)%20No.%20363-KB-2017_2018-03-16%2013:43:30.pdf](https://ibbi.gov.in/webadmin/pdf/order/2018/Mar/13th%20Mar%202018%20in%20the%20matter%20of%20Divya%20jyoti%20Sponge%20Iron%20Private%20Limited%20C.P%20(IB)%20No.%20363-KB-2017_2018-03-16%2013:43:30.pdf)