

In the National Company Law Tribunal

Division Bench, (Court-I), Kolkata

IA (IBC) No. 602/ (KB) /2023

In CP(IB) No. 1699/(KB) /2018

Application under section 30(6) and section 31 of the Insolvency & Bankruptcy Code, 2016 read with regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for approval of Resolution Plan

In the Matter of:

IDL Explosives Private Limited

...Operational Creditor

And

M/s Bengal Emta Coal Mines Limited

....Corporate Debtor

And

In the matter of:

Mr. Swapnil Jain, Resolution Professional of M/s Bengal Emta Coal Mines Limited

....Applicant / RP

Date of Pronouncement of order: 12.06.2026

Coram:

Smt. Bidisha Banerjee : Member (Judicial)

Cmde. Siddharth Mishra : Member (Technical)

Counsel appeared physically / through video Conferencing

Mr. Shaunak Mitra, Adv.] For RP

Mr. Swapnil Jain, RP] RP in person

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ORDER

Per Siddharth Mishra, Member (Technical):

1. The Court convened through hybrid mode.
2. Ld. Counsel for the parties were heard at length.
3. This application has been preferred by the Resolution Professional of **M/s Bengal Emta Coal Mines Limited (CD)** to seek approval of Resolution Plan in its entirety along with all annexures, Schedule, Appendixes including the claims contained therein as submitted by **Mrs. Sarika Maiwall**, the Successful Resolution Applicant (SRA in short) along with reliefs and concessions sought for under the Plan.

4. Plan pay out is as under:

(Amount in Rs.)

Sl. No.	Category of Creditor	Amount of Claim	Claim Admitted	Amount provided under the Plan
1. Secured Financial Creditor		NIL	NIL	NIL
(a) Creditors not having a right to vote under subsection (2) of section 21				
(b) Other than (a) above		NIL	NIL	NIL
(i) Who did not vote in favour of the Resolution Plan				
		30,01,61,119.00	30,01,61,119.00	51,00,000.00

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Sl. No.	Category of Creditor	Amount of Claim	Claim Admitted	Amount provided under the Plan
(ii)	Who voted in favour of the Resolution Plan			
2. Unsecured Financial Creditor				
(a)	Creditors not having a right to vote under sub-section (2) of section 21	114,64,80,971.00	114,64,80,971.00	NIL
(b)	Other than (a) above	NIL	NIL	NIL
(I)	Who did not vote in favour of the Resolution Plan			
(ii)	Who voted in favour of the Resolution Plan	19,80,00,000.00	19,80,00,000.00	20,00,000.00
3. Operational Creditors (Other than workmen & employees & Government /statutory dues)				

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Sl. No.	Category of Creditor	Amount of Claim	Claim Admitted	Amount provided under the Plan
a. Related party of the Corporate Debtor				
(b) Other than (a) above				
(I) Government		2,37,05,52,859.00	87,01,07,452.00	10,00,000.00
(ii) Workmen		NIL	NIL	NIL
(iii) Employees		NIL	NIL	NIL
(iv) suppliers of goods and services		9,82,01,575.00	9,82,01,575.00	5,00,000.00
4. Other Debts and dues		NIL	NIL	NIL
5. Grand Total (Amount in Rs.)		4,49,82,72,269.00	2,99,78,26,835.00	86,00,000.00

5. Thus, against an admitted claim of Rs. 299 Crores, the Resolution Plan provides to pay only Rs. 86 Lakhs.

6. A Supplementary Affidavit has been filed by the Resolution Professional as indicated hereunder in regard to the clarifications sought for by this Bench. The RP has clarified as follows:

a) Bengal Emta Coal Mines Limited ("BECML" or the "Corporate Debtor") is a Joint Venture Company incorporated with West Bengal Power Development Corporation Limited ("WBPDCL"), Durgapur Projects Limited ("DPL"), and Emta Coal Limited, for the

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specific purpose of developing and operating coal mines allotted to the WBPDCCL

b) The Corporate Debtor has been undergoing Corporate Insolvency Resolution Process ("CIRP") since 30th June, 2022, with the present Deponent acting as the Resolution Professional.

c) The Hon'ble Bench, during the hearing on the pending resolution plan, has directed the Resolution Professional to file an affidavit setting out the factual position with respect to the receivable shown from WBPDCCL and other debtors, amounting to approximately Rs. 197.90 Crore, as appearing in the books of the Corporate Debtor. This affidavit is filed in compliance with that direction.

d) As per the financial statements of the Corporate Debtor for the year ended 31.03.2022, the total balance under the head of "Sundry Debtors" stands at approximately Rs. 197.90 Crore. The breakup of this amount is as follows:

i)The single largest component of the above receivable of approximately Rs. 194.29 Crore pertains to WBPDCCL. Rs. 3.48 Crore is receivable from DPL also. It is relevant to note that both WBPDCCL and DPL are equity Shareholders of the CD holding 20.01% and 5.99% shareholding in BECML respectively, and are therefore related parties of BECML. WBPDCCL is a public sector undertaking of Government of West Bengal.

e) Throughout its operational period, all coal extracted from the coal mines was supplied to WBPDCCL at its various Thermal Power plants situated in the state of West Bengal. No coal was supplied/sold to any other private parties. The invoices were raised on WBPDCCL against each such supply along with transportation charges, and the corresponding receivables have been carried in the books accordingly.

f) The debtor balances with WBPDCCL have remained unchanged since 2017. No payments have been received against these outstanding amounts during that period. This is directly attributable to the fact that the Corporate Debtor has had no

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operations whatsoever since 1st April 2015, following the Hon'ble Supreme Court's order cancelling the coal block allocations.

g) A reconciliation statement was prepared between WBPDCCL and BECML as on 31.01.2015. That remains the last reconciliation statement available on record.

h) During the course of this CIRP, the Resolution Professional made efforts to obtain updated reconciliation statements from WBPDCCL. However, WBPDCCL was unable to furnish them. The reason communicated was that the relevant records pertain to transactions conducted at various thermal power stations spread across the state, and that these old records lying at respective plants have become extremely difficult to trace and retrieve.

i) In light of the above, the Resolution Professional had filed an application under Section 19(2) of the Code against WBPDCCL, seeking cooperation in carrying out a proper reconciliation of the outstanding balance. Unfortunately, the reconciliation could not be accomplished, and the application has since been disposed of.

j) Based on whatever reconciliation records are available, there are two major discrepancies that account for a substantial portion of the outstanding balance:

i.) Sales pertaining to the financial year 2014-15, amounting to approximately Rs. 399.30 Cr, have not been acknowledged or considered by WBPDCCL in their records. The Corporate Debtor's books reflect these as supplied and invoiced, but WBPDCCL does not appear to have accounted for them on their side.

ii) There is a separate, older dispute involving a sum of approximately Rs. 223.41 Crore. This appears to relate to earlier transactions and remains unresolved between the parties.

These can be corroborated from the copy of reconciliation statements along with a summary attached herewith as Annexure -A

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k) It is also worth placing on record that WBPDCCL's position, as communicated to this Resolution Professional, is that it is actually the Corporate Debtor who owes money to WBPDCCL and not the other way around. This position is in direct contradiction to what the books of BECML reflect, and the matter remains unresolved in the absence of a complete and verified reconciliation.

l) In view of the above, the true and recoverable quantum of the receivable from WBPDCCL cannot be ascertained with certainty and since these pertain to very old records, it is difficult to calculate the actual figure. The Resolution Professional has made reasonable efforts in this regard, including seeking cooperation from WBPDCCL and filing a formal application under Section 19(2) but no conclusive amount could be determined. The present affidavit is filed to place these facts fully and transparently before the Hon'ble Bench.

m) In this regard a writ petition has been filed by the Corporate Debtor in the year 2015 along with its parent company against WBPDCCL and others which is pending before the Hon'ble High Court of Calcutta. The copy of case status page from the website of Hon'ble High Court is attached herewith as Annexure- B.

Regarding Compensation Cess and Additional Levy :-

- a) By way of its Order dated 24th September 2014, the Hon'ble Supreme Court of India found that the allocation of coal blocks made by the Central Government was arbitrary and illegal, with the cancellation taking effect from 31st March 2015. All operations ceased accordingly on 1st April 2015, and the Corporate Debtor has had no mining activity since that date. A copy of Order of the Hon'ble Supreme Court is attached herewith as Annexure -C.*
- b) By the same Order dated 24.09.2014, the Hon'ble Supreme Court has imposed Date additional levy on the allottees (40 Coal Blocks) as compensatory penalty @Rs. OF 1965/- per metric ton on the basis of a report of CAG. On the basis of this Judgement of Hon'ble Supreme Court, the Ministry of Coal demanded from the Corporate Debtor the payment of additional levy by virtue of*

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its letter dated 12.05.2015 in respect of various coal blocks operated by the CD. Copy of the letters is attached as Annexure D.

- c) *In reply to these demand notices the Corporate Debtor has replied to the of the Coal Controller and also to WBPDCCL denying its liability towards additional levy as the coal blocks were allotted to WBPDCCL only and adding the name of the CD by virtue of a deeming provision of Coal Mines (Special Provisions) Act, 2015) that too by an Ordinance (converted to Act later) after the Supreme Court judgement is totally arbitrary and unconstitutional. Copy of the letter given as above is attached as Annexure E.*
- d) *Bengal EMTA Coal Mines Limited (BECML) acted as the mine developer and operator for captive coal blocks allotted to West Bengal Power Development Corporation Limited (WBPDCCL). The coal extracted from these blocks was entirely consumed by WBPDCCL for power generation. BECML did not have any right over the coal nor did it commercially exploit or sell the same. Pursuant to the judgment dated 24.09.2014 of the Hon'ble Supreme Court, an Additional Levy of ₹295 per metric tonne of coal extracted was imposed. The levy, as per the judgment, was directed against the prior allottees of the coal blocks.*

In the present case, WBPDCCL was the prior allottee of the coal blocks. However, by virtue of a subsequent amendment introducing a deeming fiction under the Coal Mines (Special Provisions) legislation, BECML was treated as the "Prior Allottee" solely because the mining lease had been executed in its favour for operational purposes. Consequently, the financial burden of the levy was shifted to BECML, despite it neither being the original allottee nor the beneficiary of the mined coal.

The core grievance is that BECML was merely an operator facilitating mining for captive consumer and was not the entity that derived any economic benefit from the allocation.

- e) *Pursuant to the enactment of the Coal Mines (Special Provisions) Act, 2015 ("the CMSP Act"), and specifically in accordance with Section 8(4) of that Act read with the Allotment Order issued by the Nominated Authority dated 31st March 2015, the Corporate*

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Debtor's rights over the Land and Mine Infrastructure ceased to exist by operation of law.

- f) *However, under Section 16 of the CMSP Act, the prior allottee, that is, the Corporate Debtor, is entitled to receive compensation for the Land and Mine Infrastructure that was so transferred, at a value as may be prescribed under the Act. Pending realisation of this compensation, the book value of the Land and Mine Infrastructure as on 1st April 2015 was converted into a receivable in the Corporate Debtor's accounts as an interim accounting arrangement. This is the amount that appears under the head "Compensation Receivable" in the financial statements, standing at approximately Rs. 151.80 Crore.*
- g) *However as stated above there exist a significant contingent liability that directly affects the recoverability of the above compensation. The Government of India has imposed an additional levy of Rs. 1,752 Crore on the Corporate Debtor as per the Order of Hon'ble Supreme Court (supra). This amount is currently reflected as a contingent liability in the books of the Corporate Debtor and is being actively disputed. The matter is pending before the Hon'ble Supreme Court of India, wherein due to non-payment of additional levy, the Government of India has filed a contempt petition against the Managing Director of the CD. (Case number: CONMT.PET.(CrI.) No. 000002/2015 Registered on 16-03-2015). The matter is yet to be disposed by the Hon'ble Supreme Court. The last hearing was on 17.12.2024.*
- h) *Section 16(4) of the CMSP Act provides that the prior allottee shall not be entitled to receive the compensation until such time as the additional levy has been paid in full. Since the additional levy of Rs. 1,752 Crore remains outstanding and is under dispute before the Supreme Court, no compensation can presently be RY released in favour of the Corporate Debtor under the law as it stands.*

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7. In view of the above, it appears that there is a categorical admission that by way of the Resolution Plan, there is a concerted effort to wipe out huge liabilities of the Corporate Debtor against Statutory Authorities, contempt proceedings in regard to non-compliance of which orders is pending before the of Hon'ble Apex Court.
8. Further, the huge receivables to the tune of Rs. 197 Crores and odds as available from the financial records of the Corporate Debtor are noted as against a meagre proposed payout under the Plan.
9. Furthermore, it is also relevant to mention that in the present matter the records would reveal that the RP as well as the Process Adviser / Process Consultant appointed by the RP had funded EMD Money as against RFRP. The payable by the SRA which is unheard of.
10. It is also evident from the minutes of the 8th CoC Meeting held on 15.03.2023 that the CoC was not satisfied with the Financial proposals in the plan. It was far below their expectations and the SRA was asked to revise and come to an agreeable figure. A proposal was also mooted on the said to liquidate the Corporate Debtor.
11. Strangely enough, on the very next date that is on 16.03.2026 which was an adjourned meeting of the CoC, it seems a revised proposal from the Resolution Applicant that was received over email was forwarded to the CoC Members and on the same day it was considered, reviewed, deliberated upon on the evaluation matrix provided on RFRP, and, CoC while recording its satisfaction with regard to the feasibility

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and viability of the Plans submitted by **Mrs. Sarika Maiwall** approved the Plan as it was the only plan that was available in the process. No deliberations on revised proposal is however, recorded in the CoC Minutes.

12. In view of the above, having noted the discrepancies which speak volumes about the lack of bona fide in conduct of the entire process leading to the preparation of the Plan, we deem it fit to dismiss the Plan approval application number **IA (IB)/602(KB)2023**.

13. List the main CP (IB)1699(KB)2018 **on 21.07.2026**.

14. 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.

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

(Siddharth Mishra)
Member (Technical)

(Bidisha Banerjee)
Member (Judicial)

Signed on this, the 12th day of June, 2026

M. Jana (P.S.)