

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH
MA 186/2018 in CP (IB)1063(MB)/2017**

Under Section 33(2) of IBC, 2016

In the matter of

Punjab National Bank

Financial Creditor

Vs

Shree Radhe Industries Ltd

Corporate Debtor

Through

Mr. Dushyant Dave

Resolution Professional

... Applicant

Order pronounced and delivered on 11.09.2018

Coram: Hon'ble Shri B.S.V. Prakash Kumar, Member (Judicial)
Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

For the Applicant: Adv. Y. Patel, i/b Raval Shah & Co., Adv for the
Resolution Professional.

Per B. S. V. Prakash Kumar, Member (Judicial)

ORDER

It's an application filed under Section 33(2) of Insolvency and Bankruptcy Code, 2016 by the Resolution Professional herein basing on the resolution passed by the COC on 5.1.2018, giving approval to the Resolution Professional to file this application before this Bench for liquidation.

2. The facts given by the Resolution Professional in respect to the historical events happened from the date of admission till the date of filing this application are as follows:

<u>Sr No.</u>	<u>Date</u>	<u>Particulars</u>
1.	04.12.2017	The Petition filed by a Financial Creditor against the Corporate Debtor was admitted. The Interim

		Resolution Professional (Mr. Dushyant Dave) (" IRP ") was appointed.
2.	7.12.2017	The IRP issued a public notice, inviting the creditors of the Corporate Debtor to submit proof of their claims on or before 21.12.2017.
3.	28.12.2017	The IRP filed a list containing the name of the creditor, i.e. PNB along with the amount claimed and the report dated 28.12.2017 with this Hon'ble Bench.
4.	5.1.2018	The IRP was confirmed as RP in the first meeting of Committee of Creditors. In the said meeting, it was also discussed that the assets mentioned in the audited accounts were not available physically and were in fact completely sold off by Punjab National Bank. The Corporate Debtor also had no intangible assets in its books. In the said meeting it was also decided that as the Corporate Debtor had no tangible assets, the Corporate Debtor ought to be liquidate. This item was put to vote and the same was approved by the single member of the CoC, i.e. PNB.
		Prior to the appointment of IRP, PNB took steps under SARFAESI and sold off the two properties of Corporate Debtor, i.e. Land and Building and Shed Constructed thereon, situated at Village Silpahari and Plant and Machinery at Industrial Plot at Village Silpahari. Thus as on date there are no assets in the name of Shree Radhe Industries.
5	21.2.2018	In the second meeting, it was decided with 100% attendance that RP would act as a Liquidator for the purpose of liquidation unless replaced under sub-section (4)

3. M/s. Adroit Valuations and Kanti Karmsey & Co were appointed as Valuers on 14.12.2017 under Regulation 27 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for determination of Liquidation value of the assets of the Corporate Debtor in accordance with Regulation 35 of IBBI (IRPCP). 2017. It was later decided that the services of the valuers would not be useful as the Corporate Debtor had no assets, either tangible or intangible in its own name as the same were sold by PNB under the SARFAESI Act in the year 2016 that is much prior to the order passed by this Bench.

4. On having the CoC approved for liquidation of this company with 100% voting share, the RP filed this application for approval of this Bench under Section 33 of the IBC, 2016.

5. Looking at the application filed by the RP, it appears that even though 180 days of CIRP were not over, since there were no assets in the company, the CoC approved for liquidation of the Corporate Debtor, whereby basing on the CoC approval dated 5.1.2018 for liquidation, this applicant has filed this application before this Bench.

6. On perusal of this application filed by the RP, this Bench having noticed that the CoC approved resolution unanimously for liquidation of this company under Section 33(2) of IB Code, 2016 and the Regulations thereof, this Bench hereby orders as follows:

- a. That the Corporate Debtor be liquidated in the manner as laid down in the Chapter by issuing a Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to RoC under which this Company has been registered.
- b. As to appointment of Liquidator, the Resolution Professional i.e. the applicant herein is hereby directed to act as a Liquidator for the purpose of liquidation of Corporate Debtor company with all powers as envisaged in the Code.
- c. On such appointment under Section 34 of the Code, all powers of the Board of Directors, key managerial personnel and the partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.

- d. That the personnel of the Corporate Debtor shall extend all co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.
 - e. That the Insolvency Resolution Professional appointed as Liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified under Regulation 4 of Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016 and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.
 - f. Since this liquidation order has been passed, subject to Section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor, in the event of initiation of a suit or legal proceeding by the liquidator on the corporate debtor behalf, it may initiate such proceedings with prior approval of this Adjudicating Authority save and except as mentioned in sub-section 6 of Section 33 of the Code.
 - g. This liquidation order shall be deemed to be notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continuing during the liquidation process by the Liquidator.
7. Moratorium declared vide Order dated 04.12.2017 in CP No.: 1063/2017 ceased to exist.
8. Accordingly, the MA No. 186/2018 in CP-1063/2017 is hereby **allowed**.
9. Registry is directed to communicate this order to the Applicant immediately even by way of e-mail.

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**RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)**

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**B.S.V. PRAKASH KUMAR
MEMBER (JUDICIAL)**