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IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CUTTACK

IA No. 82/CTB/2019
-IN-
TP No. 245/CTB/2019
Arising Out of
CP (IB) No. 219/MB/2018

CORAM: 1. Ms. Sucharitha R. Member (J)
2. Shri Satya Ranjan Prasad, Member (T)

In the Matter of:
INSOLVENCY AND BANKRUPTCY CODE, 2016.

In the Matter of:
An application under Section 33 (1) (a) read with Section 33 (2) of the Insolvency and Bankruptcy Code, 2016.

-And-

In the Matter of:
Mr. Sanjay Gupta, AAA Insolvency Professional LLP, E-10A, Kailsah Colony, Delhi-110 048.

... ... Applicant/RP

-Versus-

In the Matter of:
Directors of the M/S. VANDANA VIDHYUT LIMITED i.e. (i) Mr. Prahalad Agarwal, Vandanaa Bhawan, M.G Road, Raipur – 492 001, (ii), Jami Koteshwar Rao, GM Commercial, Room No. 2, Guest House, Vandana Vidhyut Limited Sector- B, Sirigitti Industrial Area, Bilaspur- 495 004, Chhattisgarh. (iii). Ramawtar Agarwal, Vandanaa Bhawan, M.G. Road, Raipur- 492 001.

... ... Respondents

Sd/-

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Counsel appears for the Petitioner (S):

1. Saroj Kumar Ray, CS
2. Shaswat Kumar Rout, Adv.

Counsel appears for the Respondent (S):

1. Umesh Chandra Sahoo, Adv.
2. Rakesh Kumar Mallick, Adv.

Date of pronouncement of Order: 16th day of December, 2019.

ORDER

Per: Ms. Sucharitha R. Member (J)

1. This application is filed on 8th August, 2019 under Section 33 (2) of Insolvency and Bankruptcy Code, 2016 (herein referred as IBC) by **Mr. Sanjay Gupta**, Resolution Professional (herein referred as RP) having Registration No. IBBI/IPA-001/IP-P00117/2017-18/10252 seeking Order of Liquidation of the Corporate Debtor **M/S. VANDANA VIDHYUT LIMITED.**

2. The Adjudicating Authority at NCLT, Mumbai Bench vide its Order dated 26th April, 2018 initiated the Corporate Insolvency Resolution Process against the Corporate Debtor. Mr. Sanjeev Kumar Gupta was

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appointed as Interim Resolution professional. The present RP was appointed by NCLT, Mumbai Bench by Order dated 28th September, 2018.

3. In response to an Expression of Interest published on 27.08.2018 one Sterlite Power Grid Ventures Limited submitted the Expression of Interest. After the extension of time for submission of Expression of Interest other than Sterlite Power Grid Venture Limited another applicant Hindustan Thermal Projects Limited also submitted Expression of Interest. The submission of Expression of Interest was extended, at 5th CoC meeting. Meanwhile, the Resolution Applicant, namely, Hindustan Thermal Projects Limited withdrew their application. In 6th CoC meeting the resolution was passed for approval of the eligibility criteria and the earnest money deposit by the prospective bidders. The Resolution Applicant, namely, Hind Energy and Coal Beneficiation (India) Limited was called upon to submit Resolution Plan. Meanwhile, the PMLA Appellate Authority has de-attached the assets of the Corporate Debtor and while doing so the Appellate Authority has excluded the litigation period from the CIRP period. Hind Energy and Coal Beneficiation (India) Limited did not submit Resolution Plan. Thereafter, at the 12th CoC meeting held on 09.07.2019, the members of CoC unanimously decided that in absence of a viable the Resolution Plan for the revival of the Corporate Debtor, the liquidation process should be initiated and the Corporate Debtor may be

sold as a "going concern". Hence, in CoC meeting dated 19.07.2019 the resolution for the liquidation of the Corporate Debtor as a going concern was passed with 100% voting rights. Hence, the Resolution Professional filed this application for order of liquidation of the Corporate Debtor.

4. In the CoC meeting held on 19.07.2019, it was decided to liquidate the Corporate Debtor and to continue the RP as Liquidator with 100 % voting. The RP as a Liquidator will be entitled for the liquidation fee or part thereof through the process of assets realization, as provided under Regulation 4 (3) IBBI of (Liquidation Process) Regulations, 2016. The RP has consented to continue as Liquidator.

5. In view of the above, this Adjudicating Authority under Section 33 (1) & (2) of the Insolvency and Bankruptcy Code, 2016, the Corporate Debtor has to be ordered for Liquidation.

6. In view of the facts and circumstances recorded by the RP in IA No. 82/CTB/2019 in TP No. 245/CTB/2019 arising out CP(IB) No. 219/MB/2018 and in exercise of powers conferred under Sub-Clauses (i), (ii) and (iii) of Clause (a) of Sub-Section (1) of Section 33 of the Insolvency and Bankruptcy Code, 2016. This Adjudicating Authority proceeds to pass the Liquidation Order as follows: -

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ORDER

(i) This Adjudicating Authority orders for liquidation of the Corporate Debtor viz. **M/S. VANDANA VIDHYUT LIMITED.**

(ii) This Adjudicating Authority appoints the Resolution Professional viz., **Mr. Sanjay Gupta** as Company Liquidator, who shall issue a public announcement stating therein that the Corporate Debtors is in liquidation, in one of the leading English newspaper as well as one in vernacular newspaper having wide circulation where the registered office of the Corporate Debtor is situated as per Section 33(1) (b) (ii) of the Code read with Reg. 12 (1) of IBBI (Liquidation Process) Regulations, 2016.

(iii) The moratorium declared under Section 14 of the IBC Code, 2016, shall cease to have effect from the date of the order of liquidation.

(iv) The Liquidator is directed to liquidate/sell the Corporate Debtor's assets as "on going concern" as per Regulation 32(f) of the IBBI (Liquidation Process) Regulation, 2016. The liquidator is

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directed to proceed with the process of liquidation in the manner laid down in Chapter III of Part of II of the IBC, 2016.

(v) Subject to Section 52 of the IBC Code, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Adjudicating Authority.

(vi) This Adjudicating Authority makes it clear that para (iv) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.

(vii) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.

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(viii) All the powers of the Board of Directors, Key Managerial Personnel and the Partners of the Corporate Debtor, as the case may be, shall to have effect and shall be vested with the Company Liquidator viz., **Mr. Sanjay Gupta.**

(ix) The personnel of the Corporate Debtor shall extent all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.

(x) The Company Liquidator shall be entitled to charge such fees as stated under para 4 herein above for the conduct of the liquidation proceedings or in such a proportion to the value of the liquidation estate assets as specified under Regulation 4 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

(xi) Copy of this Order shall be sent to the concerned Registrar of Companies, Chhattisgarh, Regional Director of North-western Region, and Registered Office of the Corporate Debtor, by the company Liquidator viz., **Mr. Sanjay Gupta** for information and compliance.

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(xii) In terms of the above, IA No. 82/CTB/2019 in TP No. 245/CTB/2019 arising out of CP(IB) No. 219/MB/2018 by the Resolution Professional under Section 33 (1) (a) read with Section 33 (2) of the Insolvency and Bankruptcy Code, 2016 for initiation of the Liquidation Proceedings against the Corporate Debtor viz., M/S. VANDANA VIDHYUT LIMITED **stands disposed off.**

(xiii) The Registry is directed to send a copy of this Order to the Company Liquidator, Financial Creditor and the Corporate Debtor, concerned ROC and to the IBBI, New Delhi by Speed Post as well as by E-mail with immediate effect for information and compliance.

CERTIFIED TO BE TRUE COPY

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Shri Satya Ranjan Prasad
Member (T)

16/12/2019

Deputy Registrar
National Company Law Tribunal
Cuttack Bench

Sd

Ms. Sucharitha R.
Member (J)

Signed on this, the 16th day of December, 2019.

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