IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CUTTACK

IA (IB) No. 190/CTB/2019
Connected with
CP (IB) No. 117/CTB/2019

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:
In the matter of Section 33 of the said Act;

-And-

In the Matter of:

1. **M/s. Shubham Industries Limited,** the Corporate Debtor (under Insolvency Resolution Professional) having its registered office at C/O Purna Ch Dasadhikari Tapundia Remu Jasuli, Baleshwar, Odisha – 756 081.

2. **Mr. Sunil Kumar Keswani,** having Registration no. IBBI/IPA-001/IP-P00819/2017-2018/11396 (Interim Resolution Professional)

… … … **Applicant**

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Counsel appears for the Petitioner (S):

1. Arani Guha, Adv.

Date of pronouncement of Order: the 10th day of January, 2020.

ORDER

Per: Ms. Sucharitha R. Member (J)

1. This application is filed on 17th December, 2019 under Section 33(2) of Insolvency and Bankruptcy Code, 2016 (herein referred as IBC) by Mr. Anil Kumar Saraf, Interim Resolution Professional (herein referred as IRP) seeking order of Liquidation of the **M/s. Shubham Industries Limited.**

2. The Adjudicating Authority at NCLT, Cuttack Bench vide its Order dated 14th November, 2019 initiated the Corporate Insolvency Resolution Process against the Corporate Debtor. Mr. Anil Kumar Saraf having Registration No. IBBI/IPA-001/IP-P00340/2017-18/10611 has been appointed as Interim Resolution professional. The IRP made public announcement in Form A as on 17.11.2019 in accordance with section 15 of the Insolvency and Bankruptcy code 2016, in English newspaper

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"Orissa Post" and vernacular newspaper "Odisha Bhaskar" both dated 17.11.2019.

3. The IRP submits that CoC was formed on 06th December, 2019 and 1st CoC Meeting was held on 11th December, 2019. The matter was discussed in brief and it was agreed by the Committee of Creditors that as the Company is not a "going concern" and there is no business nor any assets of the Corporate Debtor. In view of the facts, there is no possibility of any Insolvency Resolution and accordingly, the Committee of Creditors approved for the liquidation of the Corporate Debtor by 100% voting share.

4. In the CoC meeting held on 11.12.2019, it was decided to liquidate the Corporate Debtor and to continue the IRP as Liquidator. It is also stated that IRP as a Liquidator will be entitled to Rs. 75,000/- (Seventy-Five Thousand Only) per month towards liquidation fee or part thereof through the process of assets realization, as provided under Regulation 4(2) (b) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. The IRP has consented to continue as Liquidator on the said terms and conditions. However, IBBI has released panel of approved Liquidator, Resolution Professional & Bankruptcy Trustee (BT), the name of present Resolution Professional is not found. Hence, this Adjudicating Authority appoints Mr. Sunil Kumar Keswani as liquidator.

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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 IRP in IA (IB) No. 190/CTB/2019 in CP (IB) No. 117/CTB/2019 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: -

ORDER

(i) This Adjudicating Authority orders for **liquidation** of the Corporate Debtor viz. **M/s. Shubham Industries Limited** having its registered office at C/O Purna Ch Dasadhikari Tapundia Remu Jasuli, Balseshwar, Odisha – 756 081.

(i) This Adjudicating Authority appoints the Resolution Professional viz., **Mr. Sunil Kumar Keswani** 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

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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.

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

(iii) 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.

(iv) 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.

(v) 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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(vi) 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. Sunil Kumar Keswani.

(vii) 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.

(viii) 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.

(ix) Copy of this Order shall be sent to the concerned Registrar of Companies, Regional Director of Eastern Region, and Registered Office of the Corporate Debtor, by the company Liquidator viz., **Mr. Sunil Kumar Keswani** for information and compliance.

(x) In terms of the above, IA (IB) No. 190/CTB/2019 filed in CP (IB) No. 117/CTB/2019 by the Resolution Professional under Section 33 (1) (a) read with Section 33 (2) of the Insolvency and

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Bankruptcy Code, 2016 for initiation of the Liquidation Proceedings against the Corporate Debtor viz., M/s. Shubham Industries Limited. **stands disposed off.**

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

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Shri Satya Ranjan Prasad	**Ms. Sucharitha R.**
Member (T)	**Member (J)**

Signed on this, the 10th day of January, 2020.

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