302

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

KOLKATA

CORAM: Shri Madan B. Gosavi,
Member (Judicial)
&

Shri Virendra Kumar Gupta,
Member(Technical)

C.P. (IB) No. 1560/KB/2018

IA(IB)No.196/KB/2020

In the matter of:

An Application for initiation of corporate insolvency resolution process by an operational creditor under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with applicable provisions of the Insolvency and Bankruptcy Board of India (Insolvency Resolution for Corporate Persons) Regulations, 2016.

And

In the matter of:

Union Bank of India, having its Head Office at 239, Vidhan Bhavan Marg, Mumbai 400021 and inter alia having its branch at No. 1/1 Camac Street, Ground Floor, PS Shakespeare Sarani, Kolkata 700017.

- Financial Creditor

Versus

M/s. Space Matrix Limited, having its registered office at 11 Clive Row, 3rd Floor, Room No. 15, P.S: Bura Bazar, Kolkata-700001, in the state of West Bengal under the aforesaid jurisdiction.

-Corporate Debtor

Counsels on Record:

For the Resolution Professional

1. Mr. Rahul Auddy, Advocate
2. Mr. Sanjay Kumar Gupta, RP

For the Suspended Board of Directors

1. Mr. Aritra Basu, Advocate
2. Mrs. Sweta Gandhi Murgai, Advocate

Date of hearing : 17th February, 2020

Date of pronouncement of Order: 24th February, 2020.

ORDER

Per Shri Madan B. Gosavi, Member(J)

1. Corporate Debtor was admitted in Corporate Insolvency Resolution Process by order dated 22.08.2019 because the Corporate Debtor committed default in paying the financial debt of Rs. 84,87,66,200/- (Rupees Eighty-Four Crore Eighty-Seven Lakh Sixty-Six Thousand Two Hundred Only) paying to the Financial Creditor, Union Bank of India. One Mr. Sanjay Kumar Gupta having registration no. IBBI/IPA-001/IP-P00592/2017-18/11045 was appointed as the Interim Resolution Professional.

2. On 31.08.2019, the IRP made public announcement of CIRP of the Corporate Debtor by publishing notice in Financial Express (English Daily) and Aajkaal (Bengal Daily). He thereby, called upon the creditors of the Corporate Debtor to submit claims with proof. He formed Committee of Creditors consist of following Financial Creditors allotting them voting percentage as follows:-

(i) Export Import Bank of India : 25.67%

(ii) Indian Overseas bank : 19.06%

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(iii) Assets Reconstruction Company (India) Limited : 18.33%

(iv) Union Bank of India : 14.8%

(v) State Bank of India : 13.78%

(vi) Indusind Bank : 8.38%

(vii) Dena Bank (now Bank of Baroda) : 0.51%

(viii) Oriental Bank of Commerce : 0.19%

3. It appears from the progress report filed by him that he did not get proper cooperation from the directors of the Corporate Debtor. He did not receive required financial papers. Hence, he could not prepare the information memorandum. The CoC instructed him not to prepare Information Memorandum as it would be of no use to publish Expression of Interest notice for want of adequate information. It appears from evidence on record that the business operation of the Corporate Debtor was closed since 2012. The SEZ Authority has cancelled its lease. The machinery and equipment at the site were found broken and rusted. It was very difficult to assess the cost of such broken machinery as they were in form of scrap.

4. During CIRP, the Liquidator held five CoC meetings. CIRP period of completed on 23.02.2020. CoC in its first meeting held on 14.01.2020 passed a resolution by 86% votes recommending this Authority to pass order of liquidation of the Corporate Debtor.

5. We found that the Resolution Professional did not prepare Information Memorandum, may be for want of requisite information, EOI was not published. We do not know whether the Operational Creditor has any fixed assets because that information is not on record. Be that as it may. CIRP period of 180 days is completed on 23.02.2020. RP did not get any resolution plan. CoC in its meeting dated 14th

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January, passed resolution to pass order of liquidation of the Corporate Debtor. This Authority left with not option but to pass order of liquidation of the Corporate Debtor as per Section 31(1) IBC, 2016.

6. In place of RP, we appoint one Mr. Soumitra Lahiri having registration no. IBBI/IPA-001/IP-P00734/2017-2018/11232 as the Liquidator. We pass order of liquidation of the Corporate Debtor with upon the following directions: -

ORDER

(i) Corporate Debtor **M/s Space Matrix Limited** having its registered office at 11 Clive Row, 3rd Floor, Room No. 15, P.S: Bura Bazar, Kolkata-700001, in the state of West Bengal and having CIN No. U51109WB1996PLC080341 is ordered to be **liquidated**.

(ii) Mr. Soumitra Lahiri having registration no. IBBI/IPA-001/IP-P00734/2017-2018/11232, of Flat No. 14D & E, Tower-32, Gonexx Valley, Joka, Diamond Harbour Road, Kolkata-700104, Email id- slahiri0207@gmail.com is appointed as the liquidator.

(iii) The Liquidator is directed to issue public announcement stating that the Corporate Debtor is in liquidation, in one of the leading English newspaper as well as in one 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.

(iv) The Registry is directed to communicate this order to the Registrar of Companies, West Bengal and to the Insolvency and Bankruptcy Board of India (IBBI), New Delhi.

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(v) The Order of Moratorium passed under Section 14 of the I&B Code, 2016 shall cease to have effects and a fresh moratorium under Section 33 (5) shall commence.

(vi) This order is deemed to be a notice of discharge to the officers, employees and the workmen of the Corporate Debtor as per Section 33 (7) of I&B Code, 2016.

(vii) Since the CD company is a going concern, the liquidator is at the liberty to sell the CD company as a going concern as per the provisions of the Code and regulation.

(viii) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of the Insolvency and Bankruptcy Code, 2016.

(ix) Upon proceeding with the liquidation the Liquidator shall file a ***preliminary report*** as per regulation 5 read with Reg.13 of the IBBI (Liquidation)Regulations, 2016 at the registry within 75 days from the liquidation commencement date and continue to file ***progress reports*** as per Reg.15(1) within 15 days after the end of the quarter in which he is appointed.

(x) The fee payable to the Liquidator shall form part of the liquidation cost as provided under Reg. 4(1) of the IBBI (Liquidation Process) Regulations, 2016.

(xi) The free copy of this order is to be sent to the RP/Liquidator, Operational Creditor and the Corporate Debtor by Speed Post as well as by email for information and for taking necessary steps.

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(xii) CA(IB)No.196/KB/2020 and CP(IB)No.1560/KB/2018 stand **disposed of** as order of liquidation is passed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

Sd/- 24/02/2020

(Virendra Kumar Gupta)
Member(T)

Sd/- 24/02/2020

(Madan B. Gosavi)
Member(J)

Signed on this, the 24th February, 2020.

Deeksha(steno)