

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH-I  
KOLKATA**

**IA (IB) No. 949/KB/2022  
in  
CP (IB) No. 835/KB/2018**

**An application under section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with rule 11 of the National Company Law Tribunal Rules, 2016.**

*In the matter of:*

**Poddar Business Private Limited**

... Operational Creditor

versus

**Basukinath Agro Private Limited**

... Corporate Debtor

*In the matter of:*

**Parag Chakrabarti,**

**Resolution Professional of Basukinath Agro Private Limited**

... Applicants

*Versus*

- 1. Mr. Suresh Kumar Rungta**
- 2. Mrs. Anita Rungta**
- 3. Poddar Business Private Limited**

... Respondents

*Coram:*

**Shri Rajasekhar V.K.**

**: Member (Judicial)**

**Shri Balraj Joshi**

**: Member (Technical)**

*Appearances:*

For the Applicant

: Ms. Neelima Chatterjee, Advocate

Mr. Suvodeep Chakraborty, Advocate

For the Respondent No. 1 to 3

: Mr. Arik Chaudhuri, Advocate

For the Operational Creditor

: Ms. Meenakshi Manot, Advocate

Mr. Anil Choudhary, Advocate

**Date of Hearing: 21 April 2022**

**Date of pronouncement: 25 May 2022**

**ORDER**

***Rajasekhar V.K., Member (Judicial)***

1. The Court convened through video conferencing.
2. **Preamble**
  - 2.1. This Adjudicating Authority *vide* order dated 05 November 2019, ordered initiation of Corporate Insolvency Resolution Process (“CIRP”) of Basukinath Agro Private Limited (“Corporate Debtor”) on a Company Petition filed under section 9 filed by Poddar Business Private Limited (“Operational Creditor”). Mr. Parag Chakraborti was appointed as the Interim Resolution Professional (“IRP”) of the Corporate Debtor.
  - 2.2. The IRP published Form A and invited claims from the creditors of the Corporate Debtor on 11 November 2019. On receipt and verification of claims, the IRP constituted Committee of Creditors (“CoC”) with one Operational Creditor *viz.* Poddar Business Private Limited.
3. **Submissions of the learned Counsel appearing on behalf of the Applicant**
  - 3.1. The first meeting of the CoC was held on 02 December 2019, wherein the CoC resolved not to appoint Registered Valuers as the assets of the Corporate Debtor as on 08 November 2019 was negligible. This Adjudicating Authority dismissed I.A. (IB) No. 1694/KB/2019 which was filed for dispensation of appointment of Registered Valuers and directed the IRP to appoint two valuers.
  - 3.2. Two Registered Valuers were appointed on 21 January 2020. The IRP submitted Information Memorandum to the CoC on 16 December 2019 and published Form G on 22 January 2020 inviting Expression of Interest (“EoI”). No EoI was received by the Applicant.
  - 3.3. The Forensic Auditor submitted the Final Report on 30 November 2020 and the same was forwarded to the CoC *vide* email on 11 December 2020.
  - 3.4. The liquidity position of the Corporate Debtor has worsened since 31 March 2019. The closing stock has decreased from Rs.23,21,357.70 (Rupees Twenty-Three Lakh Twenty-One Thousand Three Hundred and

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Fifty-Seven and Seven paise) as on 31 March 2019 to Nil at the CIRP commencement date, whereas the Bank balance and cash in hand has reduced to Rs.6,983.72 (Rupees Six Thousand Nine Hundred Eighty Three and Seven Two paise) and Rs.1,161/- (Rupees One Thousand One Hundred and Sixty One only).

- 3.5.CoC meetings have not been held since 21 September 2020 because the sole member of the Committee of Creditors did not attend the CoC meetings.
- 3.6.Further, the CoC has not made payment toward the CIRP cost and the Applicant has been meeting the CIRP expenses from his pocket.
- 3.7.The entire CIRP has been a wasteful exercise and that the period of 180 days of CIRP period was over on 06 May 2020.
- 3.8.The Applicant is unable to carry forward the CIRP due to non-cooperation from the sole member of the CoC.
- 3.9.Pursuant to the order dated 17 February 2022, wherein this Adjudicating Authority directed the CoC to pay the CIRP cost and fees to the Applicant, the CoC paid the outstanding dues to the Applicant. The CoC held a meeting on 23 February 2022 wherein the CoC resolved to terminate the CIRP and thereby liquidate the the Corporate Debtor.
- 3.10. Thereafter, in the 12<sup>th</sup> CoC meeting, held on 04 April 2022, the CoC resolved to dissolve the Corporate Debtor and close the CIRP as there was no Resolution Applicant.
4. Upon hearing the Resolution Professional and on perusal of the documents annexed to the application, it appears that the Corporate Debtor does not have any assets.
5. We perused the affidavit filed on 24 February 2022, wherein the minutes of the 11<sup>th</sup> CoC meeting is annexed. The representative of the CoC, Mr. Anil Choudary has been authorised by an Authority Letter to attend the meeting of the CoC, but on perusal of the said Authority Letter dated 02 December 2019, it is seen that he has been authorised to attend the CoC meeting of “Farmville Agrovvet Limited”.

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6. Clarification was sought in this regard on 24.05.2022, The Applicant filed an Authority Letter wherein Mr. Anil Choudary has been authorised to attend the CoC meetings of the Corporate Debtor.
7. The Corporate Debtor does not have any assets, at this stage it would be prudent to dissolve the Corporate Debtor instead of sending it to liquidation and then dissolving the Corporate Debtor as there are no assets to be liquidated.
8. In view of the above facts and circumstances, there is no impediment to the Corporate Debtor being dissolved, and it is ordered accordingly.
9. The Resolution Professional is further directed to serve a copy of this order upon the Registrar of Companies, West Bengal, immediately and, in any case, within fourteen days of receipt of this order. The Registrar of Companies shall take further necessary action upon receipt of a copy of this order.
10. The Resolution Professional shall stand discharged from his responsibilities, subject to procedural compliances.
11. *I.A. (IB) No. 949/KB/2021 in C.P. (IB) No. 835/KB/2018 is allowed with the above directions and I.A. (IB) No. 949/KB/2021 and C.P. (IB) No. 835/KB/2018 are hereby disposed of.*
12. The Registry is directed to send email of the order forthwith to all the parties and their Id. Counsel for information and for taking necessary steps.
13. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
14. File be consigned to records.

BALRAJ  
JOSHI

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**Balraj Joshi**  
**Member (Technical)**

Rajasekha  
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**Rajasekhar V.K.**  
**Member (Judicial)**

**25 May 2022**

GGRB (LRA)