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IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

Coram : Shri Madan B. Gosavi,
Hon'ble Member (J)
&
Shri Virendra Kumar Gupta
Hon'ble Member (T)

CP (IB) No.734/KB/2018

In the matter of:

An application for initiation of Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

-And-

In the matter of:

DIS Techno & Information Systems Private Limited, represented By is director, Axis Chaudhuri, having its registered office at 222, Pandiya Road Extn. Ground floor, Kolkata- 700 029, in the state of West Bengal, within the said jurisdiction;

... Operational Creditor

-Versus-

In the matter of:

Kolkata Electronics Private Limited, a company having its registered office at 1, Vidyasagar Sarani, Silpara, Behala, Near Basketball Ground, Kolkata- 700 008, in the state of West Bengal, within the aforesaid jurisdiction;

.... Corporate Debtor

Counsel appeared:

CS. Mr. Mohan Ram Goenka

] Resolution Professional

Mr. Biplab Kumar Sarkar, Advocate

] Director

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Date of Pronouncement of Order: 16.01.2020

ORDER

Per Shri Madan B. Gosavi, Member(J):

At the instance of Dis Techno & Information Systems Pvt. Ltd. - the operational creditor, M/s. Kolkata Electronics Private Limited, the corporate debtor was admitted in Corporate Insolvency Resolution Process (for short, CIRP) under section 9 of Insolvency & Bankruptcy Code, 2016 (for short, I&B Code) by order dated 05.07.2019 because corporate debtor committed default in paying the operational debt of Rs.2,29,881/-.

2. Mr. Mohan Ram Goenka, CS having registration no.IBBI/IPA-002/IP-N00288/2017-2018/10846 was appointed as the IRP.

3. On 12.07.2019, IRP made public announcement of admission of corporate debtor in CIRP and called upon its creditors to submit its claim with the proof. In pursuant thereto, IRP received claims from two operational creditors, (1) Dis Techno & Information Systems Pvt. Ltd., i.e. the applicant and (2) Joint Commissioner, Commercial Taxes, Govt. of India. He constituted CoC of both the operational creditors allotting them voting percentage based on the dues.

4. On 07.08.2019, 1st CoC meeting was held. IRP requested the CoC to replace him with other professional because he was pre-occupied. However, CoC did not consider his request. The Bench directed him to proceed with CIRP, as per the rules.

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5. Second CoC meeting was held on 24.09.2019. It was attended by one of the directors of the corporate debtor, namely, Mr. Biplab Sarkar. Mr. Sarkar told IRP and Members of CoC that the corporate debtor does not have any realisable assets. He does not have the details of the bank account of the corporate debtor.

6. Looking to his approach and conduct of non-cooperation, the RP filed application under section 19(2) of IBC. This Bench issued direction to the directors of the corporate debtor to cooperate CoC and the RP in successful completion of CIRP but there appears no progress. CIRP period of 180 days was completed on 31.12.2019. When the CIRP period was to over, RP received claims from two financial creditors, i.e. (i) IDFC First Bank Ltd. and (ii) M/s. Tata Capital Financial Services Limited. However, for want of required documents, their claims could not be verified.

7. It is seen from materials on record that the corporate debtor does not have any assets. Finding that corporate debtor does not have any assets, the CoC, RP and all other stakeholders virtually lost interest in this proceeding. On 07.01.2019, the RP orally requested this Bench to pass order of liquidation of the corporate debtor as he did not receive any resolution plan. CoC did not pass formal resolution recommending the liquidation of the corporate debtor. By that as it may, since CIRP period of 180 days are over and the RP did not receive any resolution plan, we are left with no option but to pass order of liquidation of the corporate debtor.

8. RP requested this Bench to replace him with another and not to appoint him as a Liquidator but considering material on record, we direct him to complete process of liquidation of the corporate debtor within 60 days and file application under section 54 of IBC.

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process of liquidation of the corporate debtor within 60 days and file application under section 54 of IBC.

9. Hence, we proceed to pass order requiring the Corporate Debtor to be liquidated in the manner as laid down in the Chapter III of Part II of I&B Code. We also pass an order under section 33 of the I&B Code, 2016 to start process of liquidation of the Corporate Debtor by the following order:

ORDER

1. By this order, Corporate Debtor- **Kolkata Electronics Private Limited** is liquidated.
2. Mr. Mohan Ram Goenka, CS having registration no.IBBI/IPA-002/IP-N00288/2017-2018/10846 is appointed as the Liquidator.
3. Mr. Mohan Ram Goenka is directed to issue Public Announcement stating that the corporate debtor is in liquidation, in terms of Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016.
4. 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.
5. 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.

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6. 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.

7. 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.


8. 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.

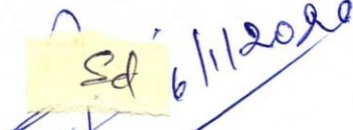
9. The fee payable to the Liquidator shall form part of the liquidation cost as provided under Reg. 4(1) of the IBBI (Liquidation Process) Regulations, 2016.

10. Registry is hereby directed to communicate the order to the Operational Creditor, Corporate Debtor and the Liquidator by Speed Post and also by email for information and for taking necessary steps.

11. CP(IB) No.734/KB/2018 stands disposed off.

Let the certified copy of the order be issued upon compliance with requisite formalities.


(Virendra Kumar Gupta)
Member(T)


(Madan B. Gosavi)
Member (J)

Signed on this, the 16th day of January, 2020.