

**NATIONAL COMPANY LAW TRIBUNAL, CUTTACK BENCH,**  
**CUTTACK**

**ORDER SHEET OF THE HEARING ON 22<sup>nd</sup> NOVEMBER, 2019, 10:30 A.M.**

**(CP (IB) No. 1802/MB/2018), CA No.73/CTB/2019, IA No. 119/CTB/2019**

**Present: 1. Hon'ble Member, Ms. Sucharitha R. (J)**  
**2. Hon'ble Member, Shri Satya Ranjan Prasad (T)**

|                     |   |
|---------------------|---|
| Name of the Company | Friends Agencies -Vs- BIW Fabricators Pvt. Ltd. |
| Under Section       | 9 IBC   |

**Coram: 1. Hon'ble Member, Ms. Sucharitha R. (J)**  
**2. Hon'ble Member, Shri Satya Ranjan Prasad (T)**

For Petitioner (s) :

For Respondent (s) Saroj Kumar Sahoo, CS

**ORDER**

Heard. Reserved for order. Order passed in separate sheet.

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**Shri Satya Ranjan Prasad**  
**Member (T)**

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**Ms. Sucharitha R.**  
**Member(J)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
CUTTACK BENCH  
CUTTACK**

**IA No. 119/CTB/2019  
Connected with  
CA No. 73/CTB/2019  
Arising out of  
CP (IB) No. 1802/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:  
In the matter of Section 33 of the said Act;**

-And-

**In the Matter of:  
Mr. Bankim Shukla having Registration number IBBI/IPA-001/IP-  
P00606/2017-2018/11067 (Resolution Professional)**

... .. **Applicant**

**Date of pronouncement of Order: the 22<sup>nd</sup> day of November, 2019.**

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## ORDER

Per: Ms. Sucharitha R. Member (J)

1. This application is filed on 25<sup>th</sup> September, 2019 under Section 33(2) of Insolvency and Bankruptcy Code, 2016 (herein referred as IBC) by Mr. Bankim Shukla, Resolution Professional (herein referred as RP) seeking order of Liquidation of the BIW Fabricators Private Limited.
2. The Adjudicating Authority NCLT, Mumbai Bench vide its order dated 14.01.2019 initiated the Corporate Insolvency Resolution Process against the Corporate Debtor. Mr. Pankaj Khaitan having Registration No. IBBI/IPA-002/IPN00010/2016-17/10014 has been appointed as Interim Resolution professional. The present RP was appointed by this AA by order dated 23.07. 2019. The IRP made public announcement in Form A as on 16.01.2019 in accordance with section 15 of the Insolvency and Bankruptcy code 2016, in English newspaper "Central Chronicle" and vernacular newspaper "Navbharat" both dated 16.01.2019.

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3. The Committee of Creditor (CoC) was formed on 06.02.2019. The RP appointed valuers on 28.02.2019 and on 01.03.2019 within the time prescribed under the regulation 40A of IBBI (CIRP) Regulations 2016. The CoC approved the Expression of Interest (EOI) in the meeting held on 13.03.2019. As per form-G published on 27.05.2019, the last date of submission of Expression of Interest was 10.08.2019. No EOI was received, hence, the RP recommended initiation of liquidation of the Corporate Debtor.
4. In the CoC meeting held on 13.09.2019, it was decided to liquidate the Corporate Debtor and to continue the RP as Liquidator. It is also stated that RP as a Liquidator will be entitled to Rs. 1,00,000/- 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 RP has consented to continue as Liquidator on the said terms and conditions.
5. In view of, the above and particularly in the light of the fact that no Resolution Plan has been received by this Adjudicating Authority under

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sub-Section (6) of Section 30 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. 119/CTB/2019 in CP (IB) No. 1802/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:-

### ORDER

1. This Adjudicating Authority orders for liquidation of the Corporate Debtor viz. **M/s. BIW Fabricators Private Limited**.
2. This Adjudicating Authority appoints the Resolution Professional viz., **Mr. Bankim Shukla** 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

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the Code read with Reg. 12 (1) of IBBI (Liquidation Process) Regulations, 2016.

3. The moratorium declared under Section 14 of the IBC Code, 2016, shall cease to have effect from the date of the order of liquidation.
4. 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.
5. 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.
6. This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the

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business of the Corporate Debtor is continued during the liquidation process by the Liquidator.

7. 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. Bankim Shukla.
8. 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.
9. 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.
10. Copy of this Order shall be sent to the concerned Registrar of Companies, Regional Director of Eastern Region, and Registered

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Office of the Corporate Debtor, by the company Liquidator viz., Mr. Bankim Shukla for information and compliance.

11. In terms of the above, IA No. 119/CTB/2019 filed in CP (IB) No. 1802/MB/2018 by the Resolution Professional under Section 33(2) of the IBC, 2016 for initiation of the Liquidation Proceedings against the Corporate Debtor viz., M/s BIW Fabricators Private Limited **stands disposed off.**

12. 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  
Member (T)

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Ms. Sucharitha R.  
Member (J)

*Signed on this, the 22<sup>nd</sup> day of November, 2019.*

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