

IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
KOLKATA

C.P. (IB) No.355/KB/2018

**IN THE MATTER OF:**

An application under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

And

**IN THE MATTER OF:**

**M/S. STATE BANK OF INDIA**, HAVING ITS REGISTERED OFFICE AT 'Samriddhi Bhavan, Block-B, 1, Strand Road, Kolkata 700001,

... Financial Creditor

-Versus-

**IN THE MATTER OF:**

**M/S. GEE PEE INFOTECH PRIVATE LIMITED**, having its registered office at 34/1Q Ballygunge Circular Road, Kolkata 700019, West Bengal.

... Corporate Debtor

**Coram:** Shri Jinan K.R., Hon'ble Member (Judicial) &  
Shri Harish Chander Suri, Hon'ble Member (Technical)

**Counsel on Record:**

1. MR. BINAY SINGHANIA, FCA ] Resolution Professional
2. MR. ATUL SUREKA, Advocate ] For Resolution Professional

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**Order pronounced on: 31/01/2020**

**ORDER**

**Per Shri Harish Chander Suri, Hon'ble Member (T):**

1. By way of orders passed on 2<sup>nd</sup> August, 2019 this petition was directed to be admitted and Corporate Insolvency Resolution Process initiated against the Corporate Debtor **M/s. Gee Pee Infotech Pvt. Ltd.**, As usual moratorium was ordered and appointment of Mr. Binay Kumar Singhania was made as an Interim Resolution Professional to perform the duties assigned to the IRP/RP under the Code.
2. In his first Progress Report dated 2<sup>nd</sup> September, 2019 the IRP submitted that different announcements were made and notice published on 6<sup>th</sup> August, 2019 in two widely circulated newspapers in Kolkata. In the said public announcements claims from creditors were invited till 20<sup>th</sup> August, 2019. The aforesaid public announcement was displayed on the designated website of the IBBI in terms of the provisions of IBBI read with CIRP regulations. An intimation to this effect was sent to the Corporate Debtor to publish Form A on their designated website and as regards commencement of CIRP a declaration of moratorium vide letter dated 5<sup>th</sup> August, 2019 delivered by hand in the registered office. Letters were written to Banks and various Regulatory Authorities. The IRP had received four claims from Operational Creditors as mentioned in the report.
3. In the 2<sup>nd</sup> Progress Report submitted by the RP it was informed that the appointment of IRP as RP was confirmed by the Committee of Creditors on 03.09.2019. It was further informed that according to Regulation 27 of the

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IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2018, the Resolution Professional had appointed two registered valuers viz., Mr. Anil Kumar Gupta and Sri Neeraj Surekha on 13.09.2019 for the valuation of financial asset only with a professional fees of Rs. 20,000/- (plus GST) payable to each one of them for the said assignment. In the minutes of the meeting held on 17<sup>th</sup> October, 2019 the Committee of Creditors decided to defer the decision of publication of the Form G as it was understood that chances of getting a Resolution Plan are rare. Discussion about EOI and Evaluation Matrix was taken up and the Financial Creditor was requested to give undertaking of confidentiality for the purposes of the sharing of Information Memorandum.

4. It was further submitted that the RP had requested the Corporate Debtor to provide certain relevant information under the provisions of the Code and the Regulations for smooth running of CIRP but the suspended Board of Directors failed to provide certain information and were not cooperative with the appointed Valuers, even though the Valuers visited the office of the Corporate Debtor personally but that did not yield any result. It is further submitted that in compliance with Section 22(1) of the IBC Code read with Regulation 17(2) of the CIRP Regulations, the RP issued notice dated 25<sup>th</sup> October, 2019 for convening the Third Meeting of the Committee of Creditors on 29<sup>th</sup> October, 2019. The said notice was sent to the sole Financial Creditor, Directors of the Corporate Debtor. In compliance with Regulation 19(1) read with Regulations 20,21,23(1) of the CIRP Regulations and one Operational Creditor – Department of Commercial Taxes, West Bengal having more than 10% of the claim. The members decided to call

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for prospective Resolution Applicant and decided to publish Form G. The terms of Valuation Matrix and details of RFRP were also taken up for discussion.

5. In the 3<sup>rd</sup> Progress Report, it is stated that since the suspended Board of Directors failed to provide the desired information, an application under Section 19(2) of the Code was filed on 18.12.2019 for non cooperation against Mr. Bijay Kumar Agarwal and Mr. Rajesh Jain, the Directors of the suspended Board of Corporate Debtor.
6. It is mentioned in the Board that the members of the Committee of Creditors decided to publish an EOI and obtain resolution plan and hence the EOI in Form G published on 30.10.2019 but there was no resolution applicant forthcoming. The RP has filed his Fourth/Final Progress Report on 28.01.2020 and submitted that in accordance with Section 22(1) of the Code read with Regulation 17(2) of the CIRP Regulations, he issued notice dated 13.01.2020 for convening Fourth Meeting of the COC on 15.01.2020.
7. It is submitted that a suggestion was made to the COC members either to reissue the EOI or go for liquidation wherein the COC members did not take any decision and on expiry of 180 days, the Corporate Debtor will be going for Liquidation. The RP discussed about Regulation 39B of IBBI (Insolvency Resolution Process for Corporate Debtor), 2016 as regards liquidation costs. In the 5<sup>th</sup> COC meeting held on 27<sup>th</sup> January, 2020, the RP informed the COC that 180 days of CIRP are going to expire and he has not received any EOI in the matter. In the absence of any viable resolution plan received by the Resolution Professional, the Corporate Debtor will go for

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liquidation. It was then decided that fee of Rs.50,000/- (Rupees Fifty Thousand Only) p.m. plus out of pocket expenses like legal fees, professional fees, travelling, lodging, stationary, courier etc., for conducting the liquidation process was fixed as fee for liquidation which will be treated as minimum remuneration payable to the liquidator which would be subsequently increased (if any) from the commission payable on sale of the liquidated assets calculated as per Regulation 4 of IBBI (Liquidation Process) Regulations 2016.

8. Since the COC has not taken any decision as regards appointment of RP as a Liquidator, we direct the RP to continue as the Liquidator in this matter. The other decision as regards fees of the Liquidator and expenses has already been decided by the COC in its meeting held on 27<sup>th</sup> January, 2020. Since the time of 180 days of CIRP has already expired on 28<sup>th</sup> January, 2020 the Corporate Debtor is bound to go in liquidation.
9. In view of the averments made in the Progress Report particularly in the Fourth/Final Report filed by the RP, we deem it fit and proper in these circumstances to pass an order of Liquidation of the Corporate Debtor under Section 33(2) of the Code, particularly for the reason that there is no resolution applicant forth-coming to take over or submit its Resolution Plan.
10. We, therefore consider it proper without any reservations to the contrary, to pass an order of Liquidation, upon the following directions:-

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**ORDERS**

- (i) In view of the facts that the Corporate Debtor has been ordered to be liquidated. **Mr. Binay Kumar Singhania**, an Insolvency Professional who is holding IBBI registration No. **IBBI/IPA-001/IP-P00041/2017-18/10102** is appointed as the Liquidator and act in accordance with Rule 12 of Liquidation Process Regulation 2016 and submit the Preliminary Report as per Regulation 13 of the said Code.
- (ii) The Registry is directed to communicate this order to the Registrar of Companies, West Bengal and to the Insolvency and Bankruptcy Board of India.
- (iii) The order of moratorium passed under section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh moratorium u/s 33(5) of the Insolvency and Bankruptcy Code shall commence.
- (iv) This order shall be deemed to be a notice of discharge of the Officers, employees and the workmen of the Corporate Debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016.
- (v) A copy of this order be sent to the Financial Creditor, Corporate Debtor and the Liquidator for taking necessary steps.

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- (vi) **C.P. (IB) No. 355/KB/2018 is disposed of accordingly.**
- (vii) Urgent certified copy of this order, if applied for, be issued to the parties upon compliance of all requisite formalities.



**(Harish Chander Suri)**

**Member (T)**



**(Jinan K.R.)**

**Member (J)**

Signed on this, the 31<sup>st</sup> day of January, 2020.

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