

NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

376

C.P.(IB) No. 93/KB/2018
CA(IB)No.1122/KB/2018
CA (IB) No. 412/KB/2019
CA (IB) No. 422/KB/2019
CA (IB) No. 453/KB/2019
CA (IB) No. 612/KB/2019
CA (IB) No. 577/KB/2019
Inv.A(IB)No.929/KB/2019
CA(IB)No.1066/KB/2019

Present: 1. Hon'ble Member (J), Shri Jinan K.R.
2. Hon'ble Member (T), Shri Harish Chander Suri

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 30th September, 2019, 10:30 A.M

Name of the Company	Bengal Polypet -Vs- Pincon Spirits Ltd.		
Under Section	9 IBC		
Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date

Atul Sureska, Adv
Ashu K. Gupta, FCA

For RP

Atul Sureska
30/09/19

A. P. Gomes
Adv
Debolina Dey Adv

for landlord

A. P. Gomes
30/9/19

→ MR. A-K-ANASHI, Adv } In Inv. A. (IB) No. 929/KB/2019

1. Kumajit Banerjee
2. Sanchari Chakraborty
3. Siksha Agarwal } For BBPL.

S. Agarwal
30/9/2019.

ORDER

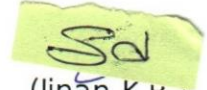
Ld. Counsel for the Resolution Professional appears. Ld. Counsel for the Landlord appears. Ld. Counsel for the applicant in Inv. A. (IB) No. 929/KB/2019 appears. Ld. Counsel for the BBPL appears.

Judgement pronounced vide separate sheet.

Urgent certified copy of the order be issued, if applied for, upon compliance of all requisite formalities.



(Harish Chander Suri)
Member (T)



(Jinān K.R.)
Member (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH,
KOLKATA**

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

CA(IB) No. 1122/KB/2018

CA(IB) No. 412/KB/2019

CA(IB) No. 422/KB/2019

CA(IB) No. 453/KB/2019

CA(IB) No. 612/KB/2019

CA(IB) No. 577/KB/2019

Inv. A. (IB) No. 929/KB/2019

CA(IB) No. 1066/KB/2019

in

C.P. (IB) No. 93/KB/2018

In the matter of:

An application u/s. 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

-And-

In the matter of:

Bengal Polypet, having its registered office at Jirat Road, New Baigachi, Ashoknagar, Pin 743222;

...Applicant/Operational
Creditor

-Versus-

Pincon Spirits Limited, having its registered office at Wellesley House, 3rd Floor, 7, Red Cross Place, Kolkata 700001;

... Respondent/Corporate Debtor

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CA(IB) No. 1122/KB/2018 in CP(IB) No. 93/KB/2019

In the matter of:

An application u/s. 60(5)(c) of the Insolvency and Bankruptcy Code, 2016;

And

In the matter of:

Mr. Binay Kumar Singhania Resolution Professional;
...Applicant

Versus

Directorate of Economic Offences, Government of West Bengal.
...Respondent

CA(IB) No. 412/KB/2019 in CP(IB) No. 93/KB/2019

In the matter of:

An application u/s. 60(5)(c) of the Insolvency and Bankruptcy Code, 2016;

And

In the matter of:

Mr. Binay Kumar Singhania, Resolution Professional;
Applicant

...

Versus

Block Land & Land Reforms Officer, Barrackpur - 1, Shyamnagar, P.S. Jaggadal, North 24 Parganas, Pin 743127.

...Respondent

CA(IB) No. 422/KB/2019 in CP(IB) No. 93/KB/2019

In the matter of:

An application u/s. 18, 19(2), 23 and 25 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 30 IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016;

And

In the matter of:

Mr. Binay Kumar Singhania, Resolution Professional;
... Applicant

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Versus

Mr. Bahadur Singh Kathotia, 35E, Mahanirban Road, Ground Floor,
Kolkata 700029.

...Respondent

CA(IB) No. 453/KB/2019 in CP(IB) No. 93/KB/2019

In the matter of:

An application u/s. 60(5)(c) of the Insolvency and Bankruptcy Code,
2016;

And

In the matter of:

Mr. Binay Kumar Singhanian, Resolution Professional;
Applicant

...

Versus

Mr. Madhu Sharma, Director at Orbital Solutions Private Limited, 53,
Rose Mary Lane, Golabari, Howrah, West Bengal 711101.

...Respondent

CA(IB) No. 612/KB/2019 in CP(IB) No. 93/KB/2019

In the matter of:

An application under the Insolvency and Bankruptcy Code, 2016;

And

In the matter of:

Mr. Durga Paper Products, having its place of business at 8/1/1, Gurudas
Dutta Garden Lane, Kolkata 700067, address for correspondence Mr.
RaichandBaid, Advocate, 11, Old Post Office Street, Ground Floor,
Kolkata 700001;

... Applicant

CA(IB) No. 577/KB/2019 in CP(IB) No. 93/KB/2019

In the matter of:

An application u/s. 60(5)(c) of the Insolvency and Bankruptcy Code,
2016;

And

In the matter of:

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Directorate of Economic Offences, Government of West Bengal, 5,
Council House Street, 1st Floor, Kolkata 700001;
... Applicant

Versus

1. M/s. Bengal Polypet
2. M/s. Pincon Spirits Limited
3. Shri Binay Kumar Singhania, Resolution Professional

...Respondents

CA(IB) No. 929/KB/2019 in CP(IB) No. 93/KB/2019

In the matter of:

An application u/s. 60(5)(c) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016;

And

In the matter of:

1. Smt. Ekta Kathodia, wife of Mr. Sanjay Shaw, 35E, Mahanirvan Road, Ground Floor, P.S. Gariahat, Kolkata 700029;
2. Shri Adarsh Kathotia, son of Shri Bahadur Singh Kathotia, 578/2, Purbachal Road, 3rd floor, P.S. Kasba, Kolkata 700078;
3. Shri Sanjay Shaw, son of Late M. L. Shaw, 309, Rai Bahadur Road, P.S. Behala, Kolkata 700053;

Applicants (Interveners) ...

Versus

1. M/s. Bengal Polypet
2. M/s. Pincon Spirits Ltd.

...Respondents

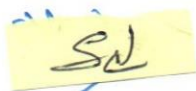
CA(IB) No. 1066/KB/2019 in CP(IB) No. 93/KB/2019

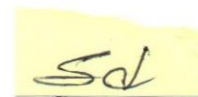
In the matter of:

An application u/s. 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016;

And

In the matter of:





Ganeshdas Ramgopal, a partnership firm duly registered under the Indian Partnership Act, 1932 and carrying on business at and from No. 1, Chittaranjan Avenue, Kolkata 700072;

... Applicant

Versus

1. Deputy Superintendent of Police, Directorate of Economic Offences, Directorate of Economic Offences
2. Shri Binay Kumar Singhania, Resolution Professional

... Respondents

Counsels appeared:

- | | | |
|----|-------------------------------------|---|
| 1. | Mr. Binay Kumar Singhania |] Resolution Professional |
| 1. | Mr. Aniruddha Roy, Advocate |]] |
| 2. | Mr. Arun Gupta, Pr. CA |] For the RP |
| 3. | Mr. Atul Sureka, Advocate |]] |
| 1. | Mr. Abhishek Sikdar, Advocate |] For the Operational |
| 2. | Mr. Sumit Biswas, Advocate |] Creditor |
| 1. | Mr. Kumarjit Banerjee, Advocate |]] |
| 2. | Ms. Sanchari Chakraborty, Advocate |] For BBPL |
| 3. | Ms. Sikha Agarwal, Advocate |]] |
| 1. | Ms. Swapna Choubey, Advocate |]] |
| 2. | Mr. A.P. Gomes, Advocate |] For the Landlord |
| 3. | Ms. Debolina Dey, Advocate |]] |
| 1. | Mr. A. K. Awasthi, Advocate |] For the intervener
] in Inv. A (IB)
] No. 929/KB/2019 |
| 1. | Mr. Jishnu Chowdhury, Advocate |] For Directorate of |
| 2. | Ms. Sudeshna Das Mazumder, Advocate |] Economic
] Offences |
| 3. | Ms. Rashmi Bothra, Advocate |]] |

Order pronounced on 30th September, 2019.

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ORDER

Per Shri Jinan, K.R., Member (Judicial)

All the applications are taken together for convenience and for avoiding repetition of facts and since common questions arise for consideration.

1. CP(IB) No. 93/KB/2018 is an application filed by Bengal Polypet/Operational Creditor for initiating Corporate Insolvency Resolution Process (In short, 'CIRP') as against the Corporate Debtor/Pincon Spirits Limited under Section 9 of the Insolvency and Bankruptcy Code, 2016 (In short, 'I & B Code'). Vide order dated 19/07/2018, this application was admitted by appointing Mr. Partha Kamal Sen as an Interim Resolution Professional. Subsequently, as per the order passed in an application filed by the Financial Creditor/State Bank of India, Mr. Partha Kamal Sen was replaced with Mr. Binay Kumar Singhania as a Resolution Professional (RP).

2. Mr. Binoy Kumar Singhania thereafter conducted the process convening altogether 7 (seven) meetings of the Committee of Creditors (In short, 'CoC'). In the 7th meeting of the CoC held on 05/04/2019, the CoC by majority voting share of the committee members has decided not to proceed with the process and recommended liquidation. In the meanwhile, the extended period of 270 days of the 'CIRP' period

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expired on 14/04/2019. The resolution recommending liquidation was approved by the CoC with 66% vote share and the Resolution Professional has filed his Final Progress Report on 16/04/2019. The Resolution Professional has given his consent for continuation as a Liquidator and his willingness seems to have been accepted by the CoC.

3. When the Final Progress Report filed by the RP, came up for consideration of this Adjudicating Authority, the undermentioned applications also come up for our consideration.

4. **CA(IB) No. 412/KB/2019** is an application filed by the RP for issuing directions upon the Block Land and Reforms Officer, Barrackpore to assist the RP in order to demarcate the property of the Corporate Debtor situated at Jaggadal, Barrackpore. **CA(IB) No. 453/KB/2019** is one another application filed by the RP as against the transfer of shares owned by the Corporate Debtor in Orbital Solution Private Limited by Mr. Madhu Sharma alleging that the said alienation is contrary to the provisions as laid down in the 'I & B Code' and **CA(IB) No. 422/KB/2019** is also pending for consideration, which was filed by the RP for taking custody of the assets, namely, the flat at Kasba of which the Corporate Debtor is allegedly the owner. One another application being **CA(IB) No. 1122/KB/2018** filed by the RP is also pending for consideration. It was filed for lifting attachment of the various properties of the Corporate Debtor by the Directorate of Economic Offences, West Bengal (In short, 'DEO, WB').

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5. In view of the expiry of 270 days of 'CIRP' period and in the absence of having any successful resolution by getting a resolution plan, the reliefs sought for in all these applications have become infructuous. No purpose would be served to proceed with these applications wherein ownership of flat at Kasba is under challenge by the occupiers of the flat, who preferred an **Inv. A. (IB) No. 929/KB/2019**. The title regarding the disputed flat allegedly belonging to the Corporate Debtor cannot be determined at the fag end of the 'CIRP'. It is left open for determination by the Liquidator by taking appropriate steps under the provisions of the Code, Regulations and applicable law in force.

6. Admittedly, the 'DEO, WB' had attached the properties of the Corporate Debtor as if it is the proceed of crime under the provisions of the West Bengal Protection of Interest of Depositors in Financial Establishments Act, 2013 (In Short 'Act of 2013') above said 'Act of 2013'. The Hon'ble National Company Law Appellate Tribunal (In short, 'NCLAT') in **CA (AT) (Insolvency) No. 140 of 2019 (Rotomac Global Private Limited -vs- Deputy Director, Directorate of Enforcement) and CA(AT) (Insolvency) No. 493 of 2018 (Varsana Ispat Limited, Through the Resolution Professional Mr. Anil Goel -vs- Deputy Director, Directorate of Enforcement)** has held that "*provisions of the 'I & B Code' do not prevail over the PMLA Act*". Proposition laid down in the above said case is squarely applicable in the case in hand.

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7. The Hon'ble Delhi High Court in **Dy. Director, Directorate of Enforcement, Delhi -vs- Axis Bank &Ors (Cr. Appeal No. 143 of 2018)** has held that{-

"Object of PMLA being distinct from the purpose of the RDDA, SARFAESI and the Code. The later 3 legislations do not prevail over the former".

8. It appears to us that provisions of 'Act of 2013' do prevail over the provisions of the Code and therefore, we could not determine the title in regard to the disputed property under attachment by the 'DEO, WB' and unable to pass an order for de-attaching of the property by 'DEO, WB'. 'Act of 2013' as prayed for by the RP. It is a self contained Act wherein Section 19 enables the Liquidator to prefer an appeal against the order of the authorities before the Hon'ble High Court at Calcutta. That being so we cannot pass any order in the pending applications and the issue arises for consideration in the said applications is left open to the parties for taking appropriate legal courses.

9. **CA(IB) No. 612/KB/2019** is an application filed by Durga Paper Products, who is an Operational Creditor, alleging non-admission of its claim. From the Synopsis of the application it appears that they have submitted their claim at a belated time. Since RP did not succeed in resolving the stressed assets of the Corporate Debtor by an approved resolution plan and we are about to pass an order of liquidation, this

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application requires no consideration at this stage. The right to claim the amount allegedly due to the applicant is also left open for submissions before the Liquidator, if they choose to submit their claim in accordance with the provisions of the Code and Regulations.

10. **CA(IB) No. 1066/KB/2019** is one another application filed by the purported landlord of the Corporate Debtor, who was in occupation of the building which was seized by the DEO WB. The Corporate Debtor was occupying 2 rooms as a tenant in the said building. According to the Ld. Counsel appearing for the applicant the Corporate Debtor owes a sum of Rs.47,35,826/- along with interest @ 18% p.a. and prays for accepting the claim of the applicant and prays for issuing directions to hand over vacant possession of the Office Rooms allegedly under the possession of the RP.

11. It is submitted by the Ld. RP that the Office Room, belonging to the applicant was sealed by the 'DEO, WB' and they have no access to the office and that seal of the room is to be opened by the 'DEO, WB' for enabling the landlord to get back the possession. RP also would submit that he did not taken possession of the premises because the 'DEO, WB' failed to handover the office room inclusive of all the assets of the Corporate Debtor to the RP despite repeated requests. Since the RP has not taken possession of the disputed building in this application, the prayer for surrendering vacant possession cannot be granted as prayed for. Regarding the arrears of rent the applicant can submit its

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claim to the liquidator because we are inclined to pass an order for liquidation of the CD. Accordingly this application is liable to be dismissed leaving opening the claim of the applicant.

12. In the meanwhile, one another application **CA(IB) No. 577/KB/2019** filed by the Directorate of Economic Offences, Government of West Bengal praying for dismissal of the CIRP proceeding already initiated in **CP(IB) No. 93/KB/2018**, also comes up for our consideration, on the allegation that the Corporate Debtor company is one of the listed companies under the SEBI was engaged in carrying out business of chit fund and financial activities and the directors of the Corporate Debtor had shareholdings in **(a) LRM Finance Limited; (b) ASK Financial Service Private Limited; (c) Greenage Food Products Limited; (d) Universal Multi State Credit Cooperative Society Limited and (e) Pincon Infrastructure Limited** and that the Corporate Debtor company being a financial service provider, proceedings initiated against the Corporate Debtor is illegal and is, therefore, liable to be dismissed.

13. The Ld. Counsel appearing for the applicant in CA(IB) No. 577/KB/2019 attempted to show us that the Corporate Debtor company is a chit fund company and was accepting fixed deposit and doing financial service activities and that its directors were arrested in a proceeding initiated under the **West Bengal Protection of Interest of Depositors in Financial Establishments Act, 2013** (in short,

'WBPIDFE Act'). The name of the Companies in which the directors of the Corporate Debtor are also shareholders as well as in the Board of Directors and in the group companies are mentioned below :

- (a) LRM Finance Limited;
- (b) ASK Financial Service Private Limited;
- (c) Greenage Food Products Limited;
- (d) Universal Multi State Credit Cooperative Society Limited; and
- (e) **Pincon Infrastructure Limited.**

14. A very look at the name of the company reveals that Sl. No. (e) (5th company) name is **Pincon Infrastructure Ltd.** The Corporate Debtor is **Pincon Spirits Limited.** The Corporate Debtor company was Incorporated under the provisions of the Companies Act, 1956 for carrying on business of manufacturing, importing, exporting and manufacturing of every kind of spirit. It has come out in evidence that Corporate Debtor is not doing any financial service business activities as alleged. There is no material furnished before us to prove that Corporate Debtor company is a chit fund company or a financial service provider comes under the purview of the 'WBPIDFE Act'. No claimant also came forward claiming refund of deposit if any deposited in the CD company. In the absence of sufficient materials to prove that the Corporate Debtor in any manner whatsoever come within the scope of purview of 'WBPIDFE Act' we are unable to hold that the proceedings initiated by this Adjudicating Authority is illegal and improper.

15. As per Section 3 of 'WBPIDFE Act', the authorities under the Act has cause of action in a case where the company failed or fraudulently defaulted in payment of deposit after the specified period or under section 2(e) of the 'WBPIDFE Act'.

16. **Financial establishment** is defined in section 2(e) of the 'WBPIDFE Act'. The expression Financial Establishment *means any person or a group of individuals or a corporate body or a partnership firm including the director, promoter, partner, manager or member of the said establishment accept the deposit under any Scheme or arrangement or in any manner, but does not include the entities mentioned therein.* On a reading of the above said provisions what we understood is that the Corporate Debtor by no stretch of imagination would come under the purview of the **Financial Establishment** defined under section 2(e) of the said 'WBPIDFE Act'.

17. Ld. Counsel appearing for the RP brought to our notice an order of the Hon'ble Calcutta High Court in W.P. No. 24110(W) of 2016 wherein the application for impleading the Corporate Debtor has been allowed by the Hon'ble High Court at Calcutta. The said writ petition seems to have been filed by public at large who were defrauded by the companies named in this application. The Hon'ble High Court at Calcutta issued directions to 'DEO, WB' to co-operate with the RP and to

assist him to discharge his statutory duties and functions in terms of 'I & B Code'. ***The assets of the Corporate Debtor have been excluded by the Hon'ble High Court vide order dated 23/04/2019 holding that assets and properties of Pincon Spirits Limited, the Corporate Debtor herein, should be kept outside purview of such sale.*** Despite the Hon'ble High Court of Calcutta's directions the 'DEO, WB' did not render any assistance to the RP and till date the property was not excluded from the attachment and attachment was not released and it is still in force. On the other hand the 'DEO WB', comes up with this application challenging the order of admission at the fag end of expiry of the 270 days of CIRP. Ld. Counsel for the applicant also attempted to convince us that this application is not maintainable by referring to the following decisions:-

- (a) Varrsana Ispat Ltd. -vs- Anl Goel, Resolution Professional (NCLAT Appeal No. 493/2018 of 02/05/2019);
- (b) DEO -vs- Axis Bank (MANU/DE/1120/2019 of 02/04/2019);
- (c) Rotomac Global Pvt. Ltd. -vs- DEO (MANU/NL/0269/2019 of 02/07/2019);
- (d) Bank of India -vs- Ketan Parekh (SCC 2008 8 Supreme Court Cases 148 of 16/05/2008);
- (e) Pioneer Urban Land -vs- Union of India (2019 SCC Online SC 1005 of 09/08/2019)

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18. We are afraid, the proposition held in all the aforesaid decisions have no application in the facts and circumstances of this case. All the aforesaid decision related to PMLA Act, 2002 and the Real Estate (Regulation and Development) Act, 2016. The facts in the case in hand not at all similar to the facts in any one of the aforesaid cases. We are unable to hold that the WBPIDFE Act has application in the case in hand. So we disagree with the view expressed by Ld. Counsel Mr. Jishnu Chowdhury appearing for and behalf of the applicant in this application.

19. Ld. Counsel also attempted to convince us that 2 of the directors of the Corporate Debtor company being directors of the group companies wherein the common directors were arrested and jailed the assets of the Corporate Debtor come under proceeds of crime and therefore the actions of the 'DEO, WB' is proper and legal. Being satisfied that the Corporate Debtor does not come under the definition of financial establishment under the provisions of 'WBPIDFE Act', the provisions of 'I & B Code' that applies in the case in hand and the provisions of 'WBPIDFE Act' is not applicable in the instant case and therefore we also do not find any merit in the above said submission of the Ld. Counsel for the applicant in this CA.

20. An argument also was advanced on the side of the applicant that SEBI published the name of the CD in the electronic media as a

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company involved in Ponzi Scam and therefore the CD company falls under the purview of WBPIDFE Act. To strengthen the said submission what is relied upon by the Ld. Counsel is a Wikipedia Report (**Annexure -B**). As stated earlier it is made clear that the CD no way comes under the purview of 'WBPIDFE Act'. Moreover, we cannot rely upon an electronic media report to hold that the CD company falls under the purview of 'WBPIDFE Act'. According to the Ld. Counsel for the RP, the said report has no evidentiary value or probative value. According to him, it is similar to a newspaper report and would further submit that no finding could be made on the strength of a paper report or on the strength of an electronic media report. To convince us he cited **AIR 1988 SC 1274 in Laxmi Raj Shetty -vs- State of Tamil Nadu**. He relied upon para 25 in the above said citation which read as follows:-

*"25. As to the first, the accused Laxmi Raj Shetty was entitled to tender the newspaper report from the Indian Express of the 29th and the regional newspapers of the 30th along with his statement under S. 313 of the Code of Criminal Procedure, 1973. Both the accused at the stage of their defence in denial of the charge had summoned the editors of Tamil dailies MalaiMurasu and MakkalKural and the news reporters of the Indian Express and Dina Thanthi to prove the contents of the facts stated in the news item but they dispensed with their examination on the date fixed for the defence evidence. We cannot take judicial notice of the facts stated in a news item being in the nature of hearsay secondary evidence, unless proved by evidence **aliunde**. A report in a newspaper is only hearsay evidence. A*

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[Signature]

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[Signature]

newspaper is not one of the documents referred to in S. 78(2) of Evidence Act, 1872 by which an allegation of fact can be proved. The presumption of genuineness attached under S. 81 of the Evidence Act to a newspaper report cannot be treated as proof of the facts reported therein."

21. In the facts and circumstances stated above, it appears to us that the applicant filed this application without applying its mind raising frivolous and misconceived pleadings and the application is liable to be dismissed with costs. The peculiar circumstances that the assets of the CD not excluded by the 'DEO WB,' the applicant in this application despite earnest effort on the side of the RP, the DEO, WB failed in giving access to the office premises which was sealed by it, that the non cooperation of the 'DEO WB', despite direction by the Hon'ble High Court Calcutta in the W.P. No. 24110 (W) of 2016, it is fair and just to impose a cost of Rs. 5 lacs on the applicant which would be recoverable from the erring officers. Accordingly this application is liable to be dismissed with cost of Rs. 5 lacs.

22. Being found that initiation of CIRP process as against the Corporate Debtor company under the provisions of the Code is perfectly legal and proper and being satisfied that CoC with majority vote share approved the decision for liquidating the Corporate Debtor company, we have no other alternative other than to pass an order of Liquidation.

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23. The Resolution Professional though made his efforts to get back the assets of the Corporate Debtor from the 'DEO, WB', but he failed in having any access to the books of account, without which he could not verify the claim received from the creditors and could not complete their valuation because of the sole reason of non-cooperation of the 'DEO, WB' the inability of the Resolution Professional in not getting a successful resolution applicant cannot be faulted. Accordingly we have no other alternative other than to pass an order of Liquidation.

24. In view of the aforesaid reasons, we are bound to pass an order of liquidation requiring the corporate debtor to be liquidated in the manner as laid down in Chapter III of Part II read with Section 33(1) of the Insolvency and Bankruptcy Code, 2016. The Ld. RP was asked to submit his willingness to continue as the Liquidator and since he has expressed his consent, the RP is to be appointed as the Liquidator.

25. In the result, the application is allowed by ordering liquidation of the Corporate Debtor, namely, Pincon Spirits Limited in the manner laid down in the Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016, upon the following among orders:-

O R D E R

- (a) Shri Binay Kumar Singhania is appointed as Liquidator;

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(b) Shri Binay Kumar Singhania is directed to issue Public Announcement stating that the Corporate Debtor is in liquidation, in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;

(c) The Registry is directed to communicate this Order to the Registrar of Companies, West Bengal and to the Insolvency and Bankruptcy Board of India;

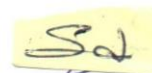
(d) The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;

(e) 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 the Insolvency and Bankruptcy Code, 2016;

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

(g) The Liquidator shall submit a Preliminary Report within seventy-five days from the date of 'commencement date' to the





Adjudicating Authority as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.

(h) Copy of this order be sent to the financial creditor, corporate debtor and the Liquidator for taking necessary steps.

(i) **CA(IB) Nos. 1122/KB/2018; CA(IB) Nos. 412/KB/2019; CA(IB) Nos. 422/KB/2019; CA(IB) Nos. 453KB/2019; CA(IB) Nos. 612/KB/2019; Inv. A. (IB) No. 929/KB/2019 and CA(IB) No. 1066/KB/2019 are dismissed without costs upon the aforesaid observations.**

(j) **CA(IB) Nos. 577/KB/2019 is dismissed with cost of Rs.5 lacs payable within two months from the date of receipt of the copy of the order to the account of the CD either by e-payment facility into bank account of the corporate debtor or by way of DD, failing which the Liquidator can realise the said amount from the applicant in accordance with applicable law.**

(k) **CP(IB) No. 93/KB/2018** is disposed accordingly.

(l) Free copy is to be issued to all the applicants/respondents and liquidator if applied for. Registry is directed to serve a copy of the order to all the applicants, the corporate debtor and to the Liquidator within 7 days from the date of the order.

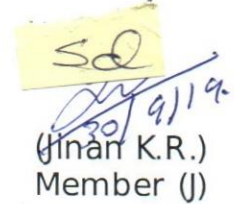
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Urgent certified copy of this order, if applied for, be issued to the parties upon compliance of all requisite formalities..



(Harish Chander Suri)
Member (T)



(Jinan K.R.)
Member (J)

Signed on this, the 30th day of September, 2019.

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