

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, COURT-II**

**I.A. (I.B.C) No. 848/KB/2022
in
CP (IB) No. 566/KB/2018**

In the matter of:

Rajendra Kumar Singhania.

...Operational Creditor

Versus

Bhowanipur Engineering Private Limited

... Corporate Debtor

AND

IN THE MATTER OF:

Rajesh Kumar Aggarwal

...Applicant/ IRP

Versus

Indian Bank

Respondent

**An Application under section 33 of the Insolvency and bankruptcy code,
2016 for liquidation in the matter of Bhowanipur Engineering Private
Limited., Corporate Debtor**

Order pronounced on: 12/03/2024

Coram:

**Smt Bidisha Banerjee, Member (Judicial)
Shri D. Arvind, Member (Technical)**

***Appearances (through hybrid mode):*
For the RP**

- 1. Rajesh Kumar Agarwal, RP**
- 2. Saunak Mitra, Adv**

In Re Liquidation of Bhowanipur Engineering Private Limited.

ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. This court convened *via* hybrid mode.
2. I.A. (I.B.C) No. 848/KB/2022 is an application filed praying for liquidation of the Corporate Debtor.

Brief facts

This Adjudicating Authority *vide* its order dated 16 March 2020 directed initiation of the Corporate Insolvency Resolution Process ('CIRP') of **Bhowanipur Engineering Private Limited** ("Corporate Debtor"), on a Petition filed by Rajendra Kumar Singhania ("Operational Creditor ") against **Bhowanipur Engineering Private Limited** under section 9 of the Insolvency and Bankruptcy Code, 2016 (*the Code*) and appointed Mr. Sushil Kumar Dokania as the Interim Resolution Professional ('IRP'). However, Mr. Sushil Kumar Dokania showed his unwillingness to act as IRP. The Hon'ble Tribunal *vide* order dated 5th January appointed Mr. Sandip Kumar Mitra as IPR. But again Mr. Sandip Kumar Mitra showed his unwillingness to act as IRP. Finally Mr. Rajesh Kumar Aggarwal was appointed as IRP *vide* order dated 31st January 2022 by the Tribunal.

3. In terms of section 15 of the Code, public announcement was made and the Committee of Creditors ("CoC") was formed with *viz* Indian Bank.
4. The CoC for the first time appeared in 5th CoC meeting held on 28 April 2022. The CoC defer all the agenda to the next CoC meeting. In 6th CoC meeting held on 11th may 2022, the CoC rejected the appointment of IRP as RP and also the CoC did not Propose the name of the new RP.

In Re Liquidation of Bhowanipur Engineering Private Limited.

5. Till the 10th CoC held on 25th July 2022, no agenda was approved in any of the meeting. The IRP continue to be IRP even after 10th meeting of CoC and no decision was made for the CIRP process. The IRP submits that 180 days of CIRP completed on 29th July 2022.
6. Finally, at 16th CoC meeting held on 15th November 2022, the CoC approved Liquidation of Corporate Debtor by 100% Voting Share.

I.A. (IB) No. 848/KB/2022

7. This is an application filed by IRP seeking liquidation of the Corporate Debtor, viz., Bhowanipur Engineering Private Limited, on the ground that there is no scope of resolution and CoC has approved Liquidation of Corporate Debtor.
8. The Applicant has sought for the following reliefs:
 - a. *Liquidation of Corporate Debtor as per section 33 of the Insolvency and Bankruptcy Code, 2016.*
 - b. *And/or to pass such other order or orders as this Hon'ble Tribunal may deem fit and proper.*

Analysis and Findings

9. We have considered the submission made by the Ld. Counsel and perused the record.
10. Section 33(2) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Debtor when the CoC with 66% approves the Liquidation of Corporate Debtor.
11. Hence, we do find merit in the prayers made in I.A. (I.B.C) No. 848/KB/2022, and deem it fit to order liquidation of the Corporate Debtor.
12. This Bench, therefore, hereby orders as follows: -

In Re Liquidation of Bhowanipur Engineering Private Limited.

- a. Prayers as sought for in I.A. (I.B.C) No. 848/KB/2022 filed by IRP, is allowed and **Bhowanipur Engineering Private Limited.**, the Corporate Debtor is ordered to be liquidated in terms of section 33(1) of the Code;
- b. **Subrata Ghosh** having registration no.**IBBI/IPA-033/IPA-ICAI-373/2021-2022/13799** is hereby appointed as Liquidator is hereby appointed as Liquidator as provided under section 34(1) of the Code subject to a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which she is a professional member,
- c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- d. Public Notice shall be issued in the newspapers stating that the Corporate Debtor is in liquidation.
- e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
- f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- g. On initiation of the liquidation process but subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.

In Re Liquidation of Bhowanipur Engineering Private Limited.

- h. In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.
 - i. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, within whose jurisdiction the Corporate Applicant is registered.
13. The application bearing **IA (I.B.C) No. 848/KB/2022** shall stand **disposed of** in accordance with the above directions.
14. List the main **CP (IB) No. 566/KB/2018** for reporting progress on **25.04.2024**.
15. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
16. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

D. Arvind
Member [Technical]

Bidisha Banerjee
Member [Judicial]

Order pronounced on the 12th day of March 2024.

NKS[LRA]