

**IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI**  
**PRINCIPAL BENCH**

**Item No. 119**  
**(IB)-706(PB)/2018**

**IN THE MATTER OF:**

ICICI Bank Ltd.

Vs.

Apex Buildsys Ltd.

.... Applicant/petitioner

.... Respondent

**Order under Section 7 of Insolvency & Bankruptcy Code, 2016 (CIRP)**

**Order delivered on 09.01.2020.**

**Coram:**

**SHRI B.S.V. PRAKASH KUMAR**  
**HON'BLE ACTG. PRESIDENT**

**SH. S. K. MOHAPATRA**  
**HON'BLE MEMBER (TECHNICAL)**

**PRESENT:**

For the applicant:-

Mr. Abhishek Anand, Mr. Sumit Bindal, Mr. Tushar Tyagi, Mr. Mohak Bansal, Mr. Viren Sharma, Advs. for RP

For the Respondent:-

Ms. Megha Choubey, Adv. for R-1

**ORDER**

**Per: B.S.V. PRAKASH KUMAR, HON'BLE ACTG. PRESIDENT**


**C.A. No. 2760(PB)/2019**

Learned counsel for the Ex-Promoters/Directors is present and filed e-vakalatnama.


It is a liquidation application filed under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (for brevity 'the Code') seeking for liquidation of the Company based on the resolution passed by CoC with 87.30% on 22.10.2019.

On perusal of this application, it appears that this company petition was admitted on 20.09.2018 by appointing Mr. Gyan Chand Narang as Interim Resolution Professional. Thereafter


upon the publication for claim applications, the Resolution Professional having received claims from the Creditors, on collation of claims, the claims in aggregate has come to Rs. 444.60 crores. Thereafter, the same Interim Resolution Professional was confirmed by the CoC to continue as Resolution Professional, in pursuance thereof, he appointed two valuers for determination of the liquidation value of the Company, subsequently he determined the liquidation value of the Company as Rs. 119.36 crores based on the average of the valuation given by the two valuers. Upon which, he prepared information of memorandum, consequent to it, issued invitation for expressions of interest. Based on fourteen expressions of interest received by the Resolution Professional, out of those fourteen expressions of interest, two of them along with their resolution plans were placed before CoC. Upon placing those two plans, since CoC felt that those two plans were constituted with a conditional arrangement and not reflecting the value of the Corporate Debtor, the CoC has, summarily rejected those two plans not for they are not viable, and passed a resolution on 22.10.2019 for liquidation of the Corporate Debtor with 87.30% voting with a recommendation to appoint same Resolution Professional as Liquidator.



Upon which this application being filed by the Resolution Professional of the Company, on perusal of it, we are of the view that CoC has taken an opinion in its commercial wisdom coming to a conclusion that those two plans with conditions are not viable to maximise the value of the assets of the Corporate Debtor, therefore CoC has passed a resolution with requisite majority proposing for liquidation of the Company, accordingly we hereby order for liquidation of the company with the following directions:-

- a. Mr. Gyan Chand Narang is appointed as Liquidator in terms of Section 34(1) of the Code;
  - b. Mr. Gyan Chand Narang 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, NCT of Delhi & Haryana 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. The Liquidator is directed to proceed with the process of liquidation in the manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant regulations.
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- f. Liquidator is directed to act in terms of the decision of Hon'ble Appellate Tribunal passed in *Company Appeal (AT) (Ins.) No. 224 of 2018 in the matter of Y. Shivram Prasad v. S. Dhanapal* decided on 27.02.2019 *inter alia* to ensure that the corporate debtor remains a going concern.
- g. The liquidator shall follow up and investigate the financial affairs of the corporate debtor in accordance with provisions of Section 35 (l) of the Code.
- h. The liquidator shall also follow any pending application for its disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.
- i. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.
- j. Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator for taking necessary steps.
- k. C.A. 2760(PB)/2019 is disposed of in the aforesaid terms.

  
**(B.S.V. PRAKASH KUMAR)**  
**ACTG. PRESIDENT**

  
**(S. K. MOHAPATRA)**  
**MEMBER (TECHNICAL)**