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IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

Coram : Shri Madan B. Gosavi,
Hon'ble Member (J)
&
Shri Virendra Kumar Gupta
Hon'ble Member (T)

CP (IB) No.436/KB/2019 and CA(IB) 54/KB/2020

In the matter of:
An application for initiation of Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

-And-

In the matter of:

Jai Balaji Industries Limited, having its office at 5, Bentinck Street, Kolkata- 700 001;

...**Operational Creditor/ Applicant**

-Versus-

In the matter of:
Bholanath Ingots Private Limited having its registered office at 1, British Indian Street, Kolkata- 700 069;
CIN: U51420WB2000PTC092152

....**Corporate Debtor**

Counsel appeared:
1. Mr. Rajesh Kumar Agarwal] Resolution Professional

Mr. Anurag Mitra, Advocate] Applicant
Mr. Shwetaank Nigam, Advocate]

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Date of Pronouncement of Order: 24.02.2020

ORDER

Per Shri Madan B. Gosavi, Member (J):

By order dated 7th August, 2019, the corporate debtor Bholanath Ingots Private Limited has been admitted in CIRP because it has committed default in paying the operational debt of Rs.6,85,00,000/- of Jai Balaji Industries Limited. One Mr. Rakesh Kumar Agarwal having registration no.IBBI/IPA-001/IP-P00443/2017-18/10786 was appointed as the I.R.P.

2. On 09.08.2019, the IRP made public announcement of the CIRP of the corporate debtor by publishing notice in "Financial Express"(in English) and Aajkal (in Bengali). He thereby called the creditors of the corporate debtor to submit the claims with proof. It is seen from the record that he received claims from six financial creditors and some of the operational creditors. He formed CoC consisting of the following financial creditors giving them vote percentage.

i) Bengal India Global Infrastructure Ltd.	- 42.05%
ii) Y.R. Traders Private Ltd.	- 34.63%
iii) Jai Balaji Industries Ltd.	- 2.75%
iv) Subhlabh Steels Private Ltd.	- 8.34%
v) Shriramrathi Steels Private Ltd.	- 0.73%
vi) Suraj Fabrics Industries Ltd.	- 11.50%

3. He collected the financial papers of the corporate debtor and assessed the assets and liabilities. He prepared Information Memorandum. He appointed two registered valuers and fixed the liquidation value of the assets of the corporate debtor. He published EoI calling upon the intended resolution applicants to submit resolution plan. It is seen from record that CIRP period of 180 days completed on 02.02.2020. During CIRP, CoC and RP did not receive

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any resolution plan. 5th CoC meeting was held on 17.01.2020. The CoC passed resolution by 85.75% votes to pass order of liquidation of the corporate debtor.

4. We have gone through all records and progress reports of the CIRP filed by the RP time to time. It appears to us that corporate debtor does not have much tangible assets. We feel that this is the reason that RP did not receive any resolution plan. Be that as it may. CIRP period of 180 days already completed on 02.02.2020. During CIRP, RP and CoC did not get any resolution plan. Hence, CoC passed resolution requesting this authority to pass order of liquidation of the corporate debtor. After considering the materials on record, we accept their request to pass order of liquidation of the corporate debtor under section 33(1) of I&B Code. Accordingly, we proceed to pass order requiring the Corporate Debtor to be liquidated in the manner as laid down in the Chapter III of Part II of I&B Code. We also pass an order under section 33 of the I&B Code, 2016 to start process of liquidation of the Corporate Debtor as by the following order:

ORDER

1. By this order, Corporate Debtor- **Bholanath Ingots Private Limited** is liquidated.

2. Mr. Rakesh Kumar Agarwal having registration no.IBBI/IPA-001/IP-P00443/2017-18/10786 is appointed as the Liquidator.

3. Mr. Rakesh Kumar Agarwal is directed to issue Public Announcement stating that the corporate debtor is in liquidation, in terms of Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016.

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4. The Registry is directed to communicate this order to the Registrar of Companies, West Bengal and to the Insolvency and Bankruptcy Board of India (IBBI), New Delhi.

5. The Order of Moratorium passed under Section 14 of the I&B Code, 2016 shall cease to have effects and a fresh moratorium under Section 33 (5) shall commence.

6. 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 I&B Code, 2016.

7. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of the Insolvency and Bankruptcy Code, 2016.

8. Upon proceeding with the liquidation the Liquidator shall file a ***preliminary report*** as per regulation 5 read with Reg.13 of the IBBI (Liquidation) Regulations, 2016 at the registry within 75 days from the liquidation commencement date and continue to file ***progress reports*** as per Reg.15(1) within 15 days after the end of the quarter in which he is appointed.

9. The fee payable to the Liquidator shall form part of the liquidation cost as provided under Reg. 4(1) of the IBBI (Liquidation Process) Regulations, 2016.

10. Registry is hereby directed to communicate the order to the RP, Operational Creditor, Corporate Debtor and the Liquidator by Speed Post and also by email for information and for taking necessary steps.

11. CP(IB) No.436/KB/2019 stands disposed off.

12. CA(IB) No.54/KB/2020 in CP(IB) 436/KB/2019 to appear for further consideration on 08.04.2020.

Let the certified copy of the order be issued upon compliance with requisite formalities.

Sd/- 24/2/2020

(Virendra Kumar Gupta)
Member(T)

Sd/- 24/2/2020

(Madan B. Gosavi)
Member (J)

Signed on this, the 24th day of February, 2020.