

BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
ALLAHABAD BENCH
CA No.149/2019 And CA No. 223/2019
IN
CP(IB) No.70/ALD/2018

IN THE MATTER OF :

M/S RG STEELS

..... Applicant

V/S

BEE KAY PRECISUM (INDIA) PVT. LTD.

..... Corporate Debtor

IN THE MATTER OF :

CA. PAWAN K. GOEL

..... Applicant

V/S

MR. NEERAJ KR. SHARMA
MR. RAM CHANDRA SHARMA
(EX- DIRECTORS OF THE CRPORATE DEBTOR)

..... Respondent

ORDER RESERVED ON:04.02.2020
ORDER DELIVERED ON:10.02.2020

CORAM:

Hon'ble Mr. Justice (Retd.) Rajesh Dayal Khare, Member, Judicial

Counsel for the Resolution Professional: Mr.Sunny Thakral, Adv

Mr. Pawan Kr. Goel, Adv

Counsel for the Ex- directors: Mr. D.N Awasthi, Adv

Per se: Mr. Justice (Retd.) Rajesh Dayal Khare, Member (Judicial)

ORDER

1. The application(CA NO. 149/2019)is filed under Section 33(2) of the Insolvency and Bankruptcy Code,2016 by the Resolution Professional, through his Counsel seeking order of the liquidation and appointment of liquidator under Section 33 and 34 of the Insolvency & Bankruptcy Code with such prayer, to pass an order for the liquidation of the Corporate Debtor Company i.e. Bee Kay Precisum (India) Pvt. Ltd. In addition, another application (CA No. 223/2019) has been filed by the corporate debtor for setting aside of the initiation of liquidation proceeding as applicant has submitted a resolution plan to the RP which has not been taken into cognizance.
2. The Adjudicating Authority, on the basis of this petition filed by the Operational creditor under Section 9 of the Code, vide order dated

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21.08.2018 initiated the CIRP in respect of Corporate Debtor Company and appointed CA Pawan K. Goel as the Interim Resolution Professional, who was confirmed as RP of the corporate Debtor on 19.09.2018 by the COC which was approved by this Hon'ble Tribunal.

3. It is submitted that by the learned counsel of RP on the basis of the publication in prescribed Form G seeking Expressions of Interest. And the CIRP expired on completion of 180 days on 16.02.2019 and subsequently on the 4th meeting of COC it was resolved by COC to extend the timelines of CIRP by another 90 days which was extended by the this tribunal which was expired on 16.05.2019.
4. Further submitted that pursuant to the public announcement in Form-G , two EOI were received by the RP ,which were informed to the COC in the 6th meeting of COC held on 22.03.2019. Despite follow-ups from the RP, none of the two parties turned up for submission of any resolution plan for the corporate debtor.
5. It is further stated that as no resolution plan has been received by the RP before the expiry of the statutory period of 270 days and now there is no other option left but to apply for initiation of liquidation process which was put before COC in the 7th meeting held on 14.05.2019 and affirmed by them to proceed for filing the application for liquidation before the tribunal.
6. In reply to it , the learned counsel for the Corporate debtor submitted that ex- directors has submitted the first Resolution Plan on 08.05.2019 and second Resolution plan on 15.05.2019 to the bank and RP through email which has not been taken in cognizance by the RP and the time was extended upto 16.05.2019 and for initiation of the liquidation process was affirmed by COC on 04.05.2019.
7. Thereafter, CA NO.223/2019 was filed by the corporate debtor for restraining the initiation of liquidation proceedings application as the applicant (i.e Bee Kay Precision (India) Pvt.Ltd) stating the same facts as stated in the reply to the application of liquidation.
8. In reply to the above CA, the learned counsel for RP submitted that the Ex directors has never submitted any resolution plan to the RP, before the last date for submission of Resolution plans which was on 03.05.2019 neither have submitted any expression of interest to

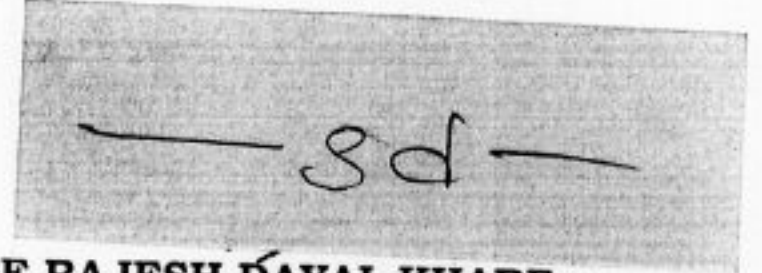
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the RP in terms of Form-G and only two parties namely M/s Prudent ARC limited and M/s SPT Commodities (P) Ltd (in association with promoter of corporate debtor) had submitted their EOI before 13.03.2019 in terms of Form -G, so the ex-director had submitted EOI but not solely but in conjunction with one other party i.e M/s SPT Commodities (P) Ltd, but no Resolution plan was received by the RP before the last date of submission of such plan.

9. And further submitted that, RP to proceed with the application for seeking liquidation was taken by COC in the 7th meeting held on 14.05.2019, in which the applicant promoters were also present and the said fact was brought to the notice of members of COC, who had decided to proceed with the moving of application of liquidation and further applicant has never disclosed the eligibility criteria for submission of the resolution plan.
10. I have gone through the contents of the present application(CA 223/2019) and pursued the documents annexed therewith. By taking into consideration the ground for seeking liquidation, I being Adjudicating Authority finds no merit in the application filed by the Ex- director of the corporate debtor as the member of COC are in favour of liquidation of the company. In view for this that **CA No. 223/2019** is hereby **rejected** and stands **dismissed**.
11. Further after going through the contents of the present liquidation application and pursued the documents annexed therewith this adjudicating Authority is of the view of the that the liquidation order can be passed in respect of Corporate Debtor i.e. Bee Kay Precision (India) Pvt. Ltd, as the Members of the COC are in favour for liquidation of the Company. Therefore, by exercising the power under Section 33(1) it is hereby directed that the Corporate Debtor shall go into Liquidation and the moratorium declared for the Corporate Debtor under Liquidation shall cease to have effect from the date of pronouncement of this Order.
12. This Adjudicating Authority hereby appoint the Resolution Professional as 'Liquidator' under Section 34(1) of the Code as he is not disqualified as per Section 34(4) of the IBC. The Liquidator shall send an intimation to the ROC with which the Corporate Debtor Company is registered. The liquidator shall cause public announcement in newspaper by declaring that the Corporate Debtor has gone under liquidation.

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13. The Liquidator shall act as per section 35 of the Insolvency and Bankruptcy Code, 2016 (hereinabove referred as "IBC") subject to direction time to time as may be issued by this Adjudicating Authority.
14. The liquidator shall file progress report of every three months.
15. With the aforesaid observations, the **CA No.223/2019** is dismissed as mentioned above and **CA No.149/2019** is **allowed** and **disposed** off accordingly.



JUSTICE RAJESH DAYAL KHARE
MEMBER (J)

Date:10.02.2020

Swati Gupta
(LRA)