

BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT 1

IA 638 of 2020 in CP(IB) 305 of 2018

Coram: Mr. MADAN BHALCHANDRA GOSAVI, MEMBER (JUDICIAL)  
Mr. VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE  
AHMEDABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 04.11.2020

Name of the Company: Pradeep Kumar Kabra RP For Pacific Pipe  
System Pvt Ltd

Section: 33 & 34 IBC

**ORDER**

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.

  
(VIRENDRA KUMAR GUPTA)  
MEMBER (TECHNICAL)

  
(MADAN B GOSAVI)  
MEMBER (JUDICIAL)

Dated this the 4<sup>th</sup> day of November, 2020.

**BEFORE THE ADJUDICATING AUTHORITY  
(NATIONAL COMPANY LAW TRIBUNAL)  
AHMEDABAD BENCH  
AHMEDABAD**

**I.A. No. 638 of 2020  
IN  
C.P. (I.B.) No.305/7/NCLT/AHM/2018**

**Through**

Mr. Pradeep Kumar Kabra  
Resolution Professional of,  
M/s Pacific Pipe System Private Limited,  
Having Registered office at;  
M-19-20-21, Metro Tower,  
Ring Road, Surat- 395002

**...Applicant/ RP**

**In the matter between:**

**Bank of India**

Having Registered Office at;  
Bandra Kurla Complex,  
Star House, C-5, G Block,  
Bandra (E), Mumbai- 400051

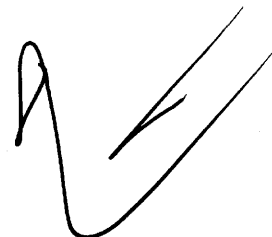
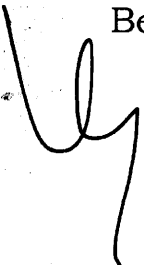
Having its Branch Office at;  
Bank of India,  
Ahmedabad Recovery Branch,  
6<sup>th</sup> Floor, Bank of India,  
Building, Bhadra,  
Ahmedabad- 380001

**.....Petitioner/ Financial Creditor**

**Versus**

**M/s Pacific Pipe System Private Limited**

Registered office at,  
Building No. 9, Sigma Corporate,  
Behind Rajpath Club,



Off. S.G Road, Bodakdev,  
Ahmedabad- 380054

.....**Respondent/ Corporate Debtor**

**Order delivered on November 04, 2020.**

**Coram: Madan B. Gosavi, Member (Judicial)  
Virendra Kumar Gupta, Member (Technical)**

**Appearance:**

**Nitu Chaturvedi counsel of Resolution Professional.  
Mr. K.M Parikh counsel appeared for COC.**

**ORDER  
(THROUGH VIDEO CONFERENCING)  
[Per: Bench]**

1. The instant application is filed by the Resolution Professional of Corporate Debtor namely Mr. Pradeep Kumar Kabra under section 33 (1) & (2) of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "**IB Code**") for the liquidation of the Corporate debtor due to non receipt of resolution plan. The Committee of Creditors (hereinafter referred to as "**COC**") has passed the resolution for liquidation of the corporate debtor in 6th meeting dated 10.09.2020 in compliance of section 33 sub section 2 of IB Code and further prayed to appoint Mr. Pradeep Kumar Kabra bearing registration No. IBBI/IPA-001/IP-P01104/2017-18/11790 as a liquidator under section 34 (4) of IB Code.

2. The petition was filed by the Bank of India under section 7 of IB Code against the Corporate Debtor bearing CP(IB) NO. 305 of 2018 and same was admitted by this Authority vide order dated 18.12.2019 Mr. Chandra Prakash Jain was appointed as an IRP for the corporate debtor. Thereafter, Mr. Pradeep Kumar Kabra was appointed as the Resolution professional in the first COC meeting dated 03.02.2020 which was approved by this Authority vide order dated 02.03.2020 in IA No. 156/2018.
3. It is evident from the record that committee of creditor was formed by the IRP in compliances of section 21 of IB Code read with Rule 6 & 8 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as "**CIRP Regulation**"). RP had invited the claim from the Creditors of the corporate debtor, thereafter, constituted Committee of Creditors (hereinafter referred to as "**COC**").
4. After approval of eligibility criteria of Resolution Plan, verification of debt of financial creditors and verification of claim of operational creditors in the second and third COC meeting held on 23.03.2020 and 30.04.2020 respectively. The Resolution Professional published the Expression of Interest

(hereinafter referred to as “**EOI**”) on 05.06.2020 under section 36 A CIRP Regulation in Form G in two newspaper, “Sandesh” in Gujrati Newspaper and “Business Standard” English Newspaper” and last date of submission of plan was 07.07.2020, however, in the forth COC meeting it was resolved to extend the time period for submission of resolution plan. Thereafter, the RP again published the EOI in aforesaid newspaper on 07.07.2020.

5. In the fifth COC meeting held on 30.07.2020 had also resolved for exclusion of 57 days Lock down period and extension of 90 days beyond 180 days and this Authority had extended 90 days from 02.07.2019 vide order dated 19.08.2020.

6. The counsel of the applicant submitted that in the 6<sup>th</sup> COC meeting held on 10.09.2020 had resolved by 100% vote to liquidate the corporate debtor as CIRP period was going to end on 29.09.2020 two to three resolution applicant intimated for submission of resolution plan, but, finally not submitted the plan. The fee of the liquidator was also finalised in the aforesaid meetings.

7. In the 7<sup>th</sup> COC meeting held on 26.09.2020, the liquidation cost under rule 39B of CIRP regulation was assessed to the tune of

Rs. 30,00,000/- excluding the liquidator fee which was earlier approved in the 6<sup>th</sup> COC meeting and same was confirmed in this meeting also, wherein, liquidator fee was fixed to tune of Rs. 1,00,000/- per month under rule 39D of CIRP regulation. The minimum fee will be deducted from the total fee payable ascertained according to the prescribed percentage out of sale of assets in liquidation under the Insolvency and Bankruptcy Board of India (Liquidation process) Regulation, 2016. Further, the COC has also recommended that liquidator may first explore sale of corporate debtor as a going concern under rule 39 C of CIRP Regulation. The provision is also made in respect that if the liquidation value is less than liquidation cost, the member of COC shall be contributed to meet the expenditure of liquidation. Form "H" has also annexed by the application as Annexure H.

8. We perused the record and heard the counsels for the RP and COC.
9. It is found that no resolution plan was received even after multiple intimation for the plan have been receipt from the resolution applicants for the corporate debtor till last date of submission of resolution plan i.e. 03.09.2020, in the 6<sup>th</sup> COC meeting dated 10.09.2020 (i.e. 267 days of CIRP period

including lock down period) resolved to liquidate the corporate debtor in compliances to section 33 (2) of IB Code.

10. Sub-Section (2) of Section 33 of the I.B. Code mandates that if, CoC, during the CIRP takes decision by 66% votes or more to liquidate the Corporate Debtor, the Adjudicating Authority shall pass order for liquidation of the Corporate Debtor.
11. The RP and CoC did not receive any Resolution Plan. The CoC by 100% votes decided to liquidate the Corporate Debtor. The Liquidator has also been consented for his appointment as Liquidator. We pass the following order:


**ORDER**

1. We hereby pass the order of liquidation of the Corporate M/s Pacific Pipe System Pvt. Ltd. , consequently allow IA No. 638 of 2020. The liquidation of the Corporate Debtor is effective from the date of this order.
2. The Moratorium declared vide order dated 18.12.2019 on CP(IB) No.305/7/NCLT/AHM/2018, henceforth, ceases to exist.
3. As per the Section 34(1) of the I.B. Code, the Applicant/ Resolution professional, Mr. Pradeep Kumar Kabra (Registration No. IBBI/IPA-001/IP-P01104/2017-18/11790 is hereby

appointed as a Liquidator of the Corporate Debtor i.e. M/s M/s Pacific Pipe System Pvt. Ltd, having CIN No. U2811110GJ2008PTC053182 who shall complete the liquidation process as per the provision of Insolvency and Bankruptcy Code, 2016 r.w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016. He is further directed to endeavour to sale the Corporate Debtor firstly as a going concern as per the resolution passed by COC.

4. All the powers of the Board of Directors, key managerial person(s), the partners of the Corporate Debtor hereafter cease to exist. All these powers henceforth, vest with the Liquidator.
5. The Liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the IB Code.
6. That once having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suite or other legal proceeding on behalf of the corporate debtor with prior approval of this



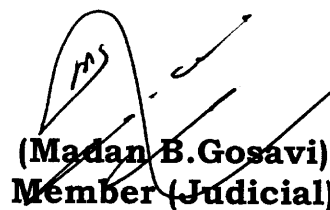
 Page 7 | 8

Adjudicating Authority as mentioned in Sub-Section 6 of Section 33 of the I.B. Code.

7. This liquidation order shall be deemed to be 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.
8. Registry is directed to upload this order on the official website within maximum two working days from the date of this order. The authenticated copy of this order also be sent by the registry to the Financial Creditor, Corporate Debtor, Registrar of the Company, Resolution Professional and Liquidator by Speed-post within one week from this order.
9. Accordingly, the present I.A. No. 638 of 2020 stands disposed of.



**(Virendra Kumar Gupta)**  
**Member (Technical)**



**(Madan B. Gosavi)**  
**Member (Judicial)**

RB