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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. 618/KB/2018 alongwith CA(IB) No.200/KB/2020

In the matter of:

An application for initiation of Corporate Insolvency Resolution Process under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

-And-

In the matter of:

An application under section 33 of the Insolvency and Bankruptcy Code, 2016;

-And-

In the matter of:

State Bank of India, State Bank Bhawan, 14th floor, Corporate Centre, Madame Cama Road, Nariman Point, Mumbai- 400 021, Maharashtra;

... Financial Creditor

-Versus-

In the matter of:

Surina Impex Private Ltd., having its registered at Post Office- Narayanpur, Mouza- Narayanpur, Baghbari, Dag No.927131, District- South 24 Parganas, Narayanpur, Kolkata- 743 502, West Bengal;

... Corporate Debtor

-And-

In the matter of:

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Sd

Sanjai Kumar Gupta, the Resolution Professional of
Surina Impex Private Limited;

... **Applicant**

Counsel appeared:

1. Mr. Rahul Auddy, Advocate] For R.P.
2. Mr. Sanjai Kr. Gupta] Resolution Professional

Date of Pronouncement of Order: 11.02.2020

ORDER

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

By order dated 07.08.2019, the corporate debtor- M/s. Surina Impex Private Ltd. has been admitted in Corporate Insolvency Resolution Process (for short, CIRP). As per the application filed by State Bank of India, the financial creditor submitted that the corporate debtor has committed default in paying the financial debt of Rs.117,91,21,868/-.

2. One Mr. Sanjai Kumar Gupta, RP having registration no.IBBI/IPA-001/IP-P00592/2017-18/11045 was appointed as the IRP. IRP made public announcement of CIRP of the corporate debtor and called for claims from creditors of the corporate debtor with proof. In pursuant thereto, financial creditor, namely, State Bank of India and Indian Overseas Bank lodged the claims. The IRP constituted CoC consisting of above financial creditor giving them voting percentage as follows:

State Bank of India	-	61.91%
Indian Overseas Bank	-	38.09%





3. CoC in its first meeting confirmed appointment of IRP as the RP. RP thereafter proceeded with the CIRP of the corporate debtor. It is seen from the record that corporate debtor does not have enough assets to resolve its insolvency. It appears from record that RP could not take control of the assets of the corporate debtor because of resistance. This authority provided him the assistance of police directing the Local Police to provide the security but it appears that in spite of those efforts, RP could not get control of the assets of the corporate debtor. He did not get any books of accounts. For want of requisite information, RP could not prepare Information Memorandum and resultantly could not publish any EoI. CoC in its last meeting passed resolution recommending the liquidation of the corporate debtor.

4. CIRP period of 180 days completed on 02.02.2020. During CIRP, the CoC and RP did not receive any resolution plan for the corporate debtor, hence, left with no option but to recommend the order of liquidation of the corporate debtor.

5. We have perused the records. We find that during CIRP, RP and CoC did not receive any resolution plan. CIRP period of 180 days is already completed on 02.02.2020. Hence, we accept the request of CoC and RP and 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 by the following order:

ORDER

By this order, Corporate Debtor- **Surina Impex Private Limited** is liquidated.





2. Mr. Sanjay Kumar Gupta, RP having registration no. IBBI/IPA-001/IP-P00592/2017-18/11045 is appointed as the Liquidator.
3. Mr. Gupta 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.
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.


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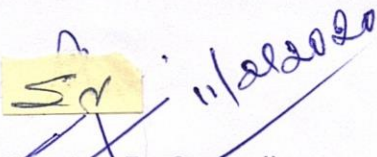
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10. Registry is hereby directed to communicate the order to the RP, Financial Creditor, Corporate Debtor and the Liquidator by Speed Post and also by email for information and for taking necessary steps.

11. CP(IB) No.618/KB/2018 alongwith the CA(IB)200/KB/2020 stands disposed off.

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


(Virendra Kumar Gupta)
Member(T)


(Madan B. Gosavi)
Member (J)

Signed on this, the 11th day of February, 2020.