

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD
Court 2**

IA 915 of 2020 in CP(IB) 578/NCLT/AHM/2018

**Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL
HON'BLE Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 07.01.2021**

Name of the Company: Bhupendra singh Narayan Singh Rajput
RP For Proeyetech Elektrotekniks Pvt Ltd
V/s
Parag Chandrakant Kothari & Anr
Section 33(1),33(2),34(1) of IBC, 2016

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1.				
2.				

ORDER

(Through Video Conferencing)

Advocate, Mr. K.M. Parikh is present on behalf of the applicant.

- 1) The instant application is filed under Section 33(1), 33(2) and 34(1) of the Insolvency and Bankruptcy Code, 2016, by the RP, viz., Shri Bhupendra Singh Narayan Singh Rajput, of M/s. Proeyetech Elektrotekniks Private Limited, with following prayers:-
 - i) To allow the present application;
 - ii) To pass an order under Section 33(1) and 33(2) of the Insolvency and Bankruptcy Code, 2016, for liquidation of the Corporate Debtor M/s. Proeyetech Elektrotekniks Private Limited;
 - iii) To pass an order under Section 34(1) of the Code for appointment of Mr. Pradeep Kabra as Liquidator of M/s. Proeyetech Elektrotekniks Private Limited after considering Written Consent given by Proposed Liquidator Mr. Pradeep Kabra;





- iv) To pass an order under Section 60 (5) of the Code and exclude the period of lockdown imposed by the Central Government due to COVID-19 pandemic commencing from 25th March, 2020 to 30th June 2020 i.e. 97 days for the purpose of counting of the period of Corporate Insolvency Resolution Process of Corporate Debtor as defined under the provisions of Section 12 of the I.B. Code, 2016; and
- v) To hold and declare that after excluding 97 days of period of lockdown from the CIRP period of the Corporate Debtor, 330 days u/s. 12 of the I.B. Code, 2016 gets completed on 29.10.2010.
- 2) Learned lawyer appearing on behalf of the applicant submitted that no response was received from any Resolution Applicant after the publication of Expression of Interest. Hence, the Committee of Creditors resolved, with 100% voting, to initiate liquidation process of the Corporate Debtor and to file application before this Adjudicating Authority for initiation of liquidation process of the corporate debtor company. Further the CoC has also resolved to appoint Mr. Pradeep Kabra to act as Liquidator of the Corporate Debtor company. A copy of the consent letter of Mr. Pradeep Kabra, having Registration No. IBBI/IPA-001/IP-P01104/2017-18/11790, is annexed with the instant application as Annexure-M.
- 3) Heard learned lawyer for the applicant also seen the documents and resolution so passed by the CoC on 10.09.2020, Annexure-K of the application.
- 4) On filing of the instant application notices were issued to the Suspended Management, Financial Creditors and others.
- 5) On behalf of one of the operational creditors, viz., CITI Trading Company, Mr. Zaid Ansari, Advocate is present and fairly submitted that he has lodged his claim before the RP.
- 6) Advocate, Mr. Ravish Singh is present on behalf of Original Applicant in main IB Petition, viz., Infinova India Pvt. Ltd. and fairly submitted that he has lodged his claim before the RP.
- 7) Others are found absent.
- 8) It is a matter of record that main petition, i.e. CP (IB) 578 of 2019 was admitted on 26.08.2019 and thereby 180 days expired on 26.02.2020 and 270 days was expired on 26.04.2020. Even after Lockdown period is exempted from counting






of CIRP i.e. 68 days from 23.03.2020 to 31.05.2020, in that event the RP is entitled for another 68 days, i.e. 270 days plus 68days, totalling 338 days, which expired on 30.06.2020.

- 9) However, on perusal of the record, it is found that even after the expiry and/or exemption of lockdown period, the RP has made no effort to convene meeting and after expiry of more than two months CoC meeting was held on 10.09.2020 wherein the CoC decided for liquidation of the corporate debtor company.
- 10) On perusal of the record, it is found that the RP has not adhered to the very objective of the IB Code, which has to be completed in a time bound manner, but the instant application is filed on 19.10.2020, even after more than one month of the CoC meeting. The reasons are best known to him and he has also not explained the cause of delay in filing the instant application. The RP, being the appointee of this Court, it is expected that he has to file report from time to time and to explain the cause of irregularities or any delay, in which he has totally failed.
- 11) However, in the interest of justice, the instant application is allowed for liquidation of the company by condoning the delay in filing the instant application. This may not be treated as precedent in any other cases. The instant application is allowed with following observations:-
 - a) The moratorium declared under Section 14 of the IB Code shall cease to have effect from the date of the order of liquidation.
 - b) **Mr. Pradeep Kabra**, having Registration No. IBBI/IPA-001/IP-P01104/2017-18/11790, is hereby appointed as Liquidator.
 - c) The RP is directed to handover all the documents / record to the Liquidator.
 - d) The Liquidator is directed to issue public announcement stating that the Corporate Debtor is in liquidation.
 - e) The Liquidator is required to send certified copy of this order to the authority with which the Corporate Debtor is registered.
 - f) Subject to Section 52 of the IB Code, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.





- g) This Authority makes it clear that para (f) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.
- h) The Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- i) All the powers of the Board of Directors, Key Managerial Personnel and the Partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the Company Liquidator. In addition to this, the Company Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the IB Code, 2016, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- j) The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.
- k) The Company Liquidator shall be entitled to charge such fee for the conduct of the liquidation proceedings in such a proportion to the value of the liquidation estate assets as may be specified by the Board.
- l) The Registry is directed to communicate this order with immediate effect to the concerned Registrar of Companies, registered office of the Corporate Debtor and Company Liquidator for information and compliance.
- 12) Accordingly, the instant IA is disposed of with the above observations.


CHOCKALINGAM THIRUNAVUKKARASU
MEMBER (TECHNICAL)


MANORAMA KUMARI
MEMBER (JUDICIAL)

Dated this the 7th day of January 2021