

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

Coram :Shri Madan B Gosavi, Member(Judicial)

Shri Virendra Kumar Gupta, Member(Technical)

C.P. [IB] No. 1512/KB/2018

In the matter of:

An application U/S. 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:

M/S. PEC LIMITED, having its registered office at Hansalaya, 15, Barakhamba Road, New Delhi- 110001 and having its branch office at 10B, Mukherjee Para Lane, 1st Floor, Kolkata- 700026;

... Financial Creditor

~versus~

In the matter of:

SKYRISE OVERSEAS PRIVATE LIMITED, formerly Saraf Impex Pvt. Ltd.] having its former office at 1/A, Vansittart Row, Kolkata- 700001 and having its present office at % Debabrata Pal, North Subhas Pally, Dankuni, Hooghly- 712311, West Bengal;

... Corporate Debtor

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Counsel appeared:

1. Rishab Medora]
2. Soumava Mukherjee] for the Resolution Professional

Order reserved on 05/02/2020

Order pronounced on 11/02/2020

ORDER

Per Virendra Kumar Gupta, Member(Technical)

M/S. PEC Ltd.- the Financial Creditor filed an application under Section 7 of Insolvency & Bankruptcy Code, 2016 [hereinafter referred to as "I & B Code"] against M/S Skyrise Overseas Pvt. Ltd.- the Corporate Debtor, to start Corporate Insolvency Resolution Process [hereinafter referred to as "CIRP"] of the Corporate Debtor on the ground that the Corporate Debtor committed default in paying the financial debt of Rs. 48,45,01,792/-.

2. This Authority by an order dated 09.08.2019 admitted the application commencing the CIRP of the Corporate Debtor and appointed Mr. Vikram Kumar, having registration no. IBBI/IPA-001/IP-P00082/2017-18/10178 as the Interim Resolution Professional [hereinafter referred to as the I.R.P.].
3. The I.R.P. filed three progress reports, it is seen from the first progress report that the I.R.P. made public announcement of the commencement of CIRP of the Corporate Debtor by publishing notice

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in two newspapers, viz., Financial Express [English] dated 20.08.2019 and Duranta Bharta [Bengali] dated 20.08.2019 and invited claims from the creditors of the Corporate Debtor. The I.R.P. received claims and after verification, there are four Financial Creditors and one Operational Creditor of the Corporate Debtor. The IRP was confirmed as the Resolution Professional [hereinafter referred to as "RP"] in the first COC meeting.

4. The RP submitted in its second progress report that he is unable to prepare the Information Memorandum due to non co-operation from the directors/promoters and personnel of the Corporate Debtor and other persons associated with the management of the Corporate Debtor. It is further stated that the RP was not able to locate the registered office of the Corporate Debtor as well. It is further stated that the RP has also published Form G- Invitation for Expression of Interest in two newspapers viz., Financial Express and Duranta Bharta on 23.10.2019. It is further stated that the R.P. received four prospective Resolution Applications.
5. It is seen from the minutes of meeting of the third CoC Meeting annexed with the third progress report that five EOIs was received from five prospective Resolution Applicants but the prospective Resolution Applicants did not comply with the eligibility criteria till the last day of submission and the COC was of unanimous view that no extension should be granted for submission of EOI.
6. The CIRP period of 180 days expired on 04.02.2020 and no application for extension has been filed. The RP submitted that there was no resolution plan as the prospective Resolution Applicants had not complied with the eligibility criteria till the last day of submission and the COC was of an unanimous view that no extension should be

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granted for submission of EOI. It is further submitted that no Information Memorandum could be prepared due to non co-operation from the directors/promoters and personnel of the Corporate Debtor. It is further submitted that the Corporate Debtor had minimal assets as on 31.03.2016 and the proposal of early liquidation was placed in the second CoC meeting but no decision had been arrived at.

7. Heard the Ld. R.P and the Ld. Counsel for the RP and have perused the record. It is understood that the RP has made several efforts to collect all the records of the Corporate Debtor and also to bring more Resolution Applicants for the revival of business of the Corporate Debtor. It is seen from the record that the CoC has not extended time for submission of EOI and neither have the CoC sought for extension of the CIRP period beyond 180 days.
8. Thus, the Adjudicating Authority has no other alternative but to proceed with initiation of liquidation, as per the provisions under Chapter III read with Section 33 of the I & B Code.
9. In view of the above said, we hereby pass an order of liquidation of the Corporate Debtor in the manner as laid down in Chapter III of Part II of the I & B Code 2016.

ORDER

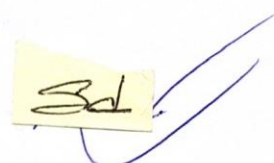
- a. Corporate Debtor, viz. Skyrise Overseas Private Limited is ordered to be liquidated;
- b. Mr. Vikram Kumar, having registration no. IBBI/IPA-001/IP-P00082/2017-18/10178 and email i.d. vikramau@gmail.com, working at J 6A, Kailash Colony, New Delhi, National Capital Territory of Delhi , 110048 is appointed as the Liquidator.

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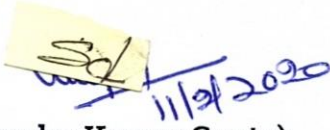
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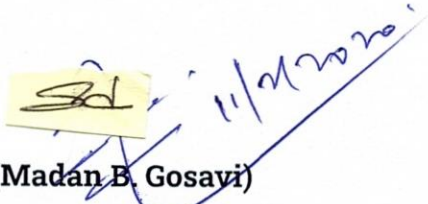
- c. Liquidator is directed to issue a public announcement stating that the Corporate Debtor is in liquidation, in one of the leading English newspaper as well as in one vernacular newspaper having wide circulation where the registered office of the corporate debtor is situated as per Section 33[1][b][ii] of the I & B Code read with Reg. 12 [1] of IBBI [Liquidation Process] Regulations, 2016;
- d. 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;
- e. The Order of Moratorium passed under Section 14 of the I & B Code, 2016 shall cease to have effect and a fresh moratorium under Section 33 [5] shall commence;
- f. 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;
- g. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of the I & B Code;
- h. 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;
- i. 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 this order to the Liquidator, RP and the Corporate Debtor by Speed Post as well as by email for information and for taking necessary steps.
11. C.P. [IB] No. 1512/KB/2018 stands disposed off.
12. Urgent photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.


(Virendra Kumar Gupta)
Member (T)


(Madan B. Gosavi)
Member (J)

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