

**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)**

**CA(IB)No.1033/KB/2019
in
CP (IB) No.1250/KB/2018**

In the matter of:

An application for initiation of Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6(1) 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:

SK Construction Private Ltd.

...Applicant/Operational Creditor

-Versus-

In the matter of:

Kohinoor Power Private Limited, having its registered office at Flat 16A, Everest House, 46C, J.L. Nehru Kolkata-700071.

...Corporate Debtor

-And-

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In the matter of:

Samir Kumar Bhattacharyya, the Resolution Professional of Kohinoor Power Private Limited.

.....Applicant

Counsel appeared:

For Resolution Professional

1. Mr. S.K. Bhattacharya, Resolution Professional
2. Mr. Rahul Auddy, Advocate for RP

For Operational Creditor

1. Mr. Ashis Kumar Mukherjee, Advocate
2. Mr. Sourojit Dasgupta, Advocate

For IFCI

1. Mr. D. Chakrabarty, Advocate

Date of Pronouncement of Order:^{4th}October, 2019.

ORDER

Per Shri Madan B. Gosavi

1. SK Construction - the Operational Creditor filed this Petition under section 9 of the Insolvency & Bankruptcy Code, 2016 (in short, I&B Code) against **Kohinoor Power Private Limited** - Corporate Debtor to start Corporate Insolvency Resolution Process (in short, "CIRP") of the Corporate Debtor, as the Corporate Debtor allegedly committed default in paying the operational debt of Rs. 5,59,198/-.

2. This authority vide order dated 03.08.2018 admitted the corporate debtor in CIRP. Ms. Savita Agarwal, having registration no. IBBI/IPA-001/IP-P00101/2017-2018/10201 was appointed as the IRP. IRP proceeded with the CIRP. She made public announcement of CIRP of the corporate

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debtor and called for the claims from the creditors of the corporate debtor. She verified the claims and formed the CoC. CoC in its first meeting replaced IRP Ms. Savita Agarwal and confirmed the appointment of one Mr. Samir Kumar Bhattacharyya, having registration no. IBBI/IPA-002/IP-N00273/2017-2018/10831 as Resolution Professional by 72% voting share. His name was also approved as RP by this Tribunal vide order dated 29.01.2019.

3. The 180 days of CIRP time period expired on 30th January, 2019 and the 270 days expired on 29th April, 2019. This Tribunal further permitted a 44 days exclusion of time and the CIRP period completion time was 12th June, 2019.

4. It is seen from the record that there was only one Resolution Applicant – names Srei Multi Asset Investment Trust Vision India Fund (SMAITVIF) who vide email dated 6th June 2019 had informed the RP that based on their detailed internal discussion with their management post their presentation of the Resolution Plan to the CoC members in the 11th CoC meeting held on 17th May, 2019, they were of the opinion that without security of land on which the plant of Kohinoor Power is located, it is difficult to envisage any value for the assets of Kohinoor Power Private Limited and hence were no longer interested in pursuing the opportunity further as Resolution Applicant. 12th CoC meeting was held on 10th June, 2019 and it was unanimously agreed by the CoC members that since there was no Resolution Plan, liquidation is to follow as per the provisions of IBC, 2016. Hence, CA(IB)No.1033/KB/2019 is filed by the Resolution Professional for passing an order of liquidation of the Corporate Debtor.

5. This Tribunal vide order dated 4th October, 2019 in this proceeding in CA(IB)No.1033/KB/2019 passed an order of liquidation of the corporate debtor under section 33 of IBC and it was mentioned therein that detailed

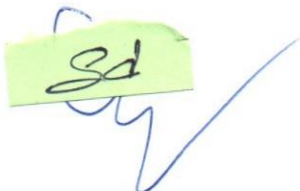
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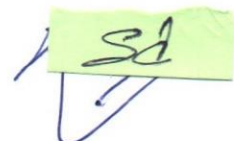
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order to follow. Accordingly, we pass an order under section 33 of the I&B Code, 2016 to start process of liquidation of the Corporate Debtor as follows:

ORDER

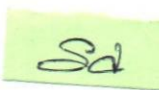
1. By this order, Corporate Debtor- Kohinoor Power Pvt. Ltd. is liquidated.
2. Mr. Yogesh Gupta, having registration no. IBBI/IPA-001/IP-P00349/2017-2018/10650 is appointed as the Liquidator.
3. The Liquidator is directed to issue Public Announcement stating that the corporate debtor is in liquidation, 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.

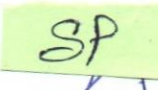




8. Upon proceeding with the liquidation the Liquidator shall file a **preliminary report** as per regulation 5 read with Reg.13 of the IBBI(Liquidation) Regulations,2016 at the registry within 75 days from the liquidation commencement date and continue to file **progress reports** as per Reg.15(1) within 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.
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. CA(IB) No.1033/KB/2018 stands disposed off.
12. CP(IB)No.1250/KB/2018 is **disposed off** as the Corporate Debtor (Kohinoor Power Private Limited) is liquidated.

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


4/10/2019
(Virendra Kumar Gupta
Member(T)


4/10/2019
(Madan B. Gosavi)
Member (J)

Signed on this, the ^{4th} day of October, 2019.