

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.214/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:

Oriental Agencies (Unit of Oriental Power Electrical Pvt. Ltd.),
having its registered office at Room No.608, 6th floor, South Block,
Todi Corner, 32, Ezra Street, Kolkata, West Bengal - 700 001
within the aforesaid jurisdiction; CIN No.U51505WB2005PTC104980
... Petitioner / Operational Creditor

-Versus-

In the matter of:

Mak Power Transformers Private Limited, a company
Registered under the provisions of the Companies Act,
and having its registered office at Nilhat House, 1st floor,
11, R.N.Mukherjee Road, Kolkata- 700 001 within the
aforesaid jurisdiction; CIN: U31102WB2003PTC095616
.... Respondent/Corporate Debtor



Counsel appeared:

1. Shri Pradeep Kr. Goenka] Resolution Professional
1. Ms. Sneha Khaian, Pr.CS] For K.K.Agarwal (C.D.)

Date of Pronouncement of Order: 16.09.2019

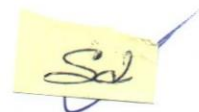
ORDER

Oriental Agencies (Unit of Oriental Power Electrical Pvt. Ltd.), the Operational Creditor having registered office at Room No.608, 6th floor, South Block, Todi Corner, 32, Ezra Street, Kolkata, West Bengal - 700 001 filed this application under section 9 of the Insolvency & Bankruptcy Code, 2016 (in short, I&B Code) against Makpower Transformers Private Limited, Corporate Debtor to start Corporate Insolvency Resolution Process (in short, "CIRP") of the Corporate Debtor as the Corporate Debtor is unable to pay the debt of Rs.6,98,780/- towards the unpaid price of the goods sold and supplied.

2. This authority vide order dated 30.11.2018 admitted the corporate debtor in CIRP. Mr. Pradeep Goenka of Bajarang Kunj, Room No .412 & 413, 2B, Grant Lane, 4th floor, Kolkata- 700 012 having registration no.IBBI/IPA-002/IP-N00294/2017-2018/10851 was appointed as the IRP. IRP proceeded with the CIRP. He made public announcement of CIRP of the corporate debtor and called for the claim from the creditors of the corporate debtor. He verified the claims and formed the CoC. His appointment as the RP was later on confirmed by the CoC.

2. During CIRP, RP did not receive resolution plan. No prospective resolution applicant had approached RP showing expression of interest towards submission of resolution. RP apprised the CoC that he is unable to communicate





with the sundry debtors of the corporate debtor for realization of dues as the directors have not provided any details with which he can communicate with corporate debtors. CoC requested directors of the corporate debtor to cooperate with RP in the matter.

3. RP informed the CoC that in the absence of latest financial statements and invoices for the fixed assets of the corporate debtor, he has directed the valuers to complete the valuation exercise on the basis of physical verification of assets. Valuers appointed for the purpose of valuation of the assets of the corporate debtor has submitted their valuation report.

4. RP then prepared and furnished information memorandum to CoC as provided under Regulation 36(1) of CIRP Regulations, 2016. CIRP period completed 180 days on 28.05.2019. RP filed report pointing out that CoC in its last meeting passed resolution requesting this authority to pass order of liquidation of the corporate debtor.

4. It is seen from the record that RP and CoC did not receive any resolution. CIRP period of 180 days is completed. In such situation, we have no other option but to pass order of liquidation of the corporate debtor.

5. CA(IB) 634/KB/2019 is filed by the RP for passing order of liquidation of the corporate debtor. Since no resolution plan is received by the RP, it appears from record that CoC has also passed resolution accordingly in its meeting. This Tribunal, after going through the records, vide order dated 16th September, 2019 passed an order of liquidation of the corporate debtor under section 33 of IBC in this proceeding and the CA(IB) 634/KB/2019 was disposed off and it was mentioned therein that detailed 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

By this order, Corporate Debtor- Makpower Transformers Private Limited is liquidated.

2. Mr. Pradeep Goenka of Bajarang Kunj, Room No .412 & 413, 2B, Grant Lane, 4th floor, Kolkata- 700 012 having registration no.IBBI/IPA-002/IP-N00294/2017-2018/10851 is appointed as the Liquidator.
3. Mr. Pradeep Goenka 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.

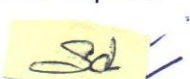
10. Registry is hereby directed to communicate the order to the RP, Financial Creditor, Corporate Debtor and the Liquidator by Speed Post and also by email for information and for taking necessary steps.

11. CP(IB) No.214/KB/2018 alongwith the CA(IB) 634/KB/2019 stands disposed off.

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

List the matter on **02.12.2019** for filing of the progress report.


(Virendra Kumar Gupta)
Member(T)


(Madan B. Gosavi)
Member (J)

Signed on this, the 16th day of September, 2019.