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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)

MA (IB) No. 308/KB/2020 in CP(IB) No.698/KB/2018

In the matter of:

Application by the Liquidator under section 54(2) of Insolvency & Bankruptcy Code, 2016 to dissolve the Corporate Debtor under Liquidation Process of IBC;

-And-

In the matter of:

State Bank of India,having its Head office at State Bank Bhavan, Corporate Centre, Madam Cama Road, Mumbai- 400 021 through Stress Assets Management Branch (SAMB-I) at Nagaland House, 8^{th} floor, 11 & 13, Shakespeare Sarani, Kolkata- 700 071 ;

... **Financial Creditor**

-Versus-

In the matter of:

TAPL International Pvt. Ltd., having his registered office at Room No.212, 2^{nd} floor, Martin Burn House, 1, R.N. Mukherjee Road, Kolkata- 700 001 and Corporate Office at 11/1A/3, East , Topsia Road, TilPin- 711 202 within the aforesaid jurisdiction; CIN :U17120WB2011PTC166338;

...**Corporate Debtor(In Liquidation)**

-And-

In the matter of:

Mr. Pratim Bayal, Liquidator of TAPL International Private Limited (in Liquidation)

... **Liquidator**

Sd

Sd

Counsel last appeared:

1 Mr. Pratim Bayel	] Liquidator
2. Basabraj Chakraborty, Advocate	] For Liquidator
3. Diottima Ray, Advocate	]

Date of Pronouncement of Order: 27.02.2020

ORDER

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

This application under section 54(2) of IBC is filed by Mr. Pratim Bayel, the Liquidator of the Corporate Debtor, M/s. TAPL International Private Limited. The Corporate Debtor was admitted in Corporate Insolvency Resolution Process (for short, CIRP) at the instance of the Financial Creditor, State Bank of India on a ground that it has committed default in paying the financial debt of more than Rs.53 crores.

2. One, Mr. Sanjay Kumar Gupta having registration no. IBBI/IPA-001/IP-P00592/2017-18/11045 was appointed as the IRP. IRP's appointment as the RP is confirmed by the CoC.

3. During CIRP, the RP had made public announcement. Only one financial creditor, i.e. State Bank of India had submitted claim and the SBI was the only member of CoC. It is seen from the record that during CIRP the directors/officers of the corporate debtor did not cooperate the RP for successful completion of CIRP. They did not hand over the RP books of accounts, list of assets so as to prepare Information Memorandum. RP had filed application under section 19(2) of IBC and this authority had further directed the directors/officers of the corporate debtor to cooperate the RP for completing the

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CIRP successfully. Despite our orders, the directors of the corporate debtor did not provide the information relating to financial position of the corporate debtor. Ultimately, the CoC passed a resolution recommending this authority to pass order of liquidation of the corporate debtor.

4. Accordingly, order of liquidation of the corporate debtor came to be passed on 07.08.2019. We replaced RP, Mr. Sanjay Kumar Gupta by appointing Mr. Pratim Bayel having registration no. IBBI/IPA-003/IP-N00213/2018-19/12385 as the Liquidator by invoking provisions of section 33(4) of IBC. The Liquidator also searched for books of accounts and the assets of the corporate debtor. He found that the corporate debtor does not have fixed assets. The corporate debtor was out of operation since financial year 2012-2013. It has not filed the annual statement of accounts with the RoC required under the law. In spite of his best efforts, the Liquidator did not get any information relating to the assets of the corporate debtor which could be liquidated for the purpose of paying the debt of the creditors.

5. Finding no way out, the Liquidator held meeting of the stakeholders, i.e. State Bank of India and apprised the SBI with the fact that the corporate debtor does not have assets. No information in respect of books of accounts is available. Upon realising the chance of recovery of the debt from the company are Nil, SBI suggested him to file application for early dissolution of the corporate debtor. Accordingly, this application is filed.

6. Sub-section (2) of Section 54 of IBC states that, "***the Adjudicating Authority shall on application filed by the liquidator under sub-section (1) order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly.***"

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7. We have gone through the materials on record. We find that the corporate debtor does not have any liquidable assets left with. The financial papers of the corporate debtor are not available at the MCA site. The only stakeholder of the corporate debtor, i.e. SBI has been apprised with this fact making it clear that the debt cannot be recovered for want of assets of the corporate debtor. In such situation, we find it proper to pass order of early dissolution because it is of no use to keep such company to be live only on record. Hence, we are left with no option but to pass the order of dissolution of the corporate debtor. In view of this, we proceed to pass the following order:

ORDER

M/s. TAPL International Private Ltd., the Corporate Debtor is dissolved from the date of this order.

2. A copy of an order under sub-section (2) of section 54 shall within seven days from the date of this order, be forwarded to the authority with which the corporate debtor is registered.

3. Misc.A(IB)308/KB/2020 in CP(IB) No.698/KB/2018 stands disposed off.

4. Let the certified copy of the order be issued to the concerned poarties upon compliance with requisite formalities

Sd/- 27/2/2020
(Virendra Kumar Gupta)
Member (T)

Sd/- 27/2/2020
(Madan B. Gosavi)
Member (J)

Signed on this, the 27th day of February, 2020.

Talukdar