BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1

IA 76 of 2019 in CP(IB) 179 of 2017 With IA 412 of 2019

Coram: Hon'ble Mr. MADAN BHALCHANDRA GOSAVI, MEMBER (JUDICIAL)
Hon'ble Mr. VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE AHMEDABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 21.07.2020

Name of the Company: CA Vinod Tarachand Agrawal RP of Peace Infrastructure Pvt Ltd V/s Peace Infrastructure Pvt Ltd through Its Suspended Management & Anr

Section: 33(1),33(2) IBC

ORDER

Learned Counsel Mr. Tirth Nayak is appeared for the Applicant.

Learned Counsel Mr. Parth Shah appeared for the Respondent.

The case is fixed for pronouncement of order.

The order is pronounced in the open Court vide separate sheet.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)
Dated this the 21st day of July, 2020

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

PC

BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD

I.A. No. 76 of 2019 in

C.P. (I.B.) No.179/7/NCLT/AHM/2017

Coram: **Hon'ble Mr. Madan B. Gosavi, Member (Judicial)**
Hon'ble Mr. Virendra Kumar Gupta, Member (Technical)

In the matter of:

Mr. Vinod Tarachand Agarwal, Resolution Professional of:

M/s. Peace Infrastructure Private Limited.
Having address:
B-2, Vasa Vila, Taktawala Park,
Naranpura Char Rasta,
Naranpura, Ahmedabad,
(Gujarat), India – 380013.

..... Applicant/ RP

Versus

1. M/s. Peace Infrastructure Private Limited
B-2, Vasa Vila, Taktawala Park,
Naranpura Char Rasta,
Naranpura, Ahmedabad,
(Gujarat), India – 380013.

2. Committee of Creditors of
Peace Infrastructure Private Limited.

..... Respondents/ Corporate Debtors

Appearance:

Learned Counsel Ketan M. Parikh along with Ld. Counsel Mr. Pavan Godiawala and Mr. Tirth Nayak, for the Applicant.
Leaned Counsel Mr. Nilesh P. Udernani for the Respondent.

Order delivered on 21st July, 2020

[Per : Shri Madan B. Gosavi, Member (Judicial)]

1. This Interlocutory Application No.76 of 2019 in CP(IB) No.179/7/NCLT/AHM/2017 under Section 33(2) of the Insolvency Bankruptcy Code by Mr. Vinod Agarwal, Resolution Professional of the Corporate Debtor, M/s. Peace Infrastructure Private Limited for passing order of liquidation of the Corporate Debtor.

2. The Corporate Debtor was admitted in Corporate Insolvency Resolution Process ("CIRP") under Section 7 of the I.B. Code vide order dated 13.02.2018 on the application filed by Dena Bank, the Financial Creditor for committing default in paying the financial debt of Rs.3,32,73,258/-.

3. Initially one Mr. Santanu T. Ray was appointed as the Interim Resolution Professional ("IRP"). The IRP made public announcement of CIRP of the Corporate Debtor. He invited from the creditor of the Corporate Debtor to submit their claims but except Dena Bank there appeared no other creditor.

4. The IRP formed the Committee of Creditor ("CoC") consist of one member i.e. M/s. Dena Bank, having 100% voting of shares. In second CoC meeting dated 19.05.2018, the CoC replaced the RP, appointing applicant as RP as per Section 27 of the I.B. Code. He proceeded with the CIRP.

5. On 12.08.2018, the CIRP period of 180 days was over. By that time, the IRP has not published notice calling upon perspective resolution to submit EOI/ Resolution Plan for the Corporate Debtor.

6. We record our displeasure on this aspect. Nonetheless, CIRP period was further extended for 90 days.

7. On 29.08.2018 the RP published notice in the Form G, thereby calling the prospective resolution applicants to submit Resolution Plan for the Corporate Debtor. The CIRP period of 270 days was completed on 12.11.2018. The RP did not receive any resolution plan till the last date published in the notice, i.e. 20.10.2018. Hence, the CoC in its sixth meeting held on 02.11.2018 passed resolution recommending this authority to pass order of liquidation of the Corporate Debtor. The resolution was passed by 100% votes.

8. We heard the Learned Counsel. We perused the record.

9. We note that in this application, the RP nowhere disclosed as to what are the assets of the Corporate Debtor, which he wishes to liquidate. What are the amounts payable to the Creditors etc. The application is vague as far as these material facts are concerned. Be that, as it may since the RP and the CoC did not receive any Resolution Plan to resolve insolvency of the Corporate Debtor, we left with no option

but to pass the order of liquidation of the Corporate Debtor. The order is as under.

ORDER

1. The Corporate Debtor to be liquidated as per Chapter III and under Section 34(1) of the I.B. Code, 2016. The Applicant/ Resolution professional, Mr. Vinod Tarachand Agrawal (Registration No. IBBI/IPA-001/IP-P00641/2017-2018/11090) **is hereby appointed as a Liquidator** of the Corporate Debtor.

2. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.

3. The personnel of the Corporate Debtor are directed to extend all co-operations to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

4. The Liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.

5. That once having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceedings

shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suite or other legal proceeding on behalf of the corporate debtor with prior approval of this Adjudicating Authority as mentioned in Sub-Section 6 of Section 33 of the I.B. Code.

6. The Liquidator shall co-ordinate with all the authorities and the respected Government Authorities and shall provide complete information to facilitate the process of Liquidation.

7. The Liquidator is at liberty to seek any directions, if need be from this Tribunal during the Liquidation Process.

8. The Liquidator shall take necessary legal action to recover the trade receivables and other credits such as loans and advances from the parties which are reflected in the latest balance sheet of the Corporate Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed under Section 33(5) of the Code.

9. This liquidation order shall be a deemed to be notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.

10. The Moratorium declared vide order dated 13.02.2018 on CP(IB) No.179/7/NCLT/AHM/2017, henceforth cease to exist.

11. The present I.A. No. 76 of 2019 is allowed directing the appointed Liquidator to initiate liquidation process as envisaged under Chapter – III of the Code by following the liquidation process given in the Insolvency and Bankruptcy Board of India (liquidation process) Regulations, 2016.

12. Copy of this order be sent to the Registrar of Companies, Gujarat, Ahmedabad within 07 days for information and necessary action.

13. Accordingly the present I.A. No.76 of 2019 is allowed and stands disposed of.

21/7/2020

(Virendra Kumar Gupta)
Adjudicating Authority &
Member (Technical)

21/7/2020

(Madan B. Gosavi)
Adjudicating Authority &
Member (Judicial)

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