IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

IA No. 667/KB/2020
In
CP (IB) No. 718/KB/2019

Under section 33 of Insolvency & Bankruptcy Code, 2016

*In the matter of*

SREI Infrastructure Finance Limited

...Financial Creditor

*Versus*

Giridhan Projects Private Limited

...Corporate Debtor

*And*

Dipti Ranjan Nath
RP of Giridhan Projects Private Limited

… Applicant

Order reserved on: 10.12.2020
Order pronounced on: 02.02.2021

*Coram:*

| | | |
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| Shri Rajasekhar V.K. | : | Member (Judicial) |
| Shri Harish Chander Suri | : | Member (Technical) |

*Appearances (through video conference):*

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| For the Applicant | : | 1. Mr. Sidhartha Sharma, Advocate<br>2. Ms. Ujjaini Chatterjee, Advocate<br>3. Mr. Dipti Ranjan Nath, RP in person |
| Financial Creditor | : | 1. Mr. Rishav Banerjee, Advocate |
| | : | 2. Mr. Rajarshi Banerjee, Advocate |

ORDER

*Per: Rajasekhar V.K., Member (Judicial)*

1. This court convened *via* video conference today.

2. This is an application filed by the Resolution Professional (RP) seeking liquidation of the Corporate Debtor, *viz* Giridhan Projects Private Limited, on the ground that no Resolution Plan was received by him.

3. This Adjudicating Authority *vide* its order dated 02.08.2019 on a Petition filed by SREI Infrastructure Finance Limited(financial creditor)under section 7 of the Insolvency and Bankruptcy Code, 2016 (the Code) directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor and appointed Mr. Pratim Bayal as the Interim Resolution Professional (IRP).

4. In terms of section 15 of the Code, public announcement in Form 'A' was made by the IRP on 04.08.2019 in *Financial Express* (English) and *Aajkal* (Bengali) of Kolkata edition of the said newspapers, fixing 18.08.2019 as the last date for submitting the claim.

5. Committee of Creditors (CoC) was duly constituted by the IRP and it had its first meeting on 09.09.2019.

6. Invitation for Expression of Interest (EoI) was published in Form 'G' on 18.10.2019 fixing the last date for receipt of EoI as 02.11.2019.

7. No EoI was received till the last date of submission, *i.e.,* 02.11.2019. However, the IRP received an EoI on 08.11.2019 from Durgesh

Limited (Delhi) and he forwarded the same to the CoC on 09.11.2019.

8. In the second CoC meeting held on 23.10.2019, the CoC decided to replace the IRP - Mr. Pratim Bayal with the RP i.e., the Applicant herein - Mr. Dipti Ranjan Nath. This Adjudicating Authority confirmed the appointment of Mr. Dipti Ranjan Nath as the RP *vide* order dated 14.11.2019, which was communicated to the RP only on 29.11.2019.

9. Upon receipt of an EoI after the last date of submission, the CoC in its third meeting decided to publish another Form G. Therefore, Form G was re-published on 26.12.2019 in *Financial Express* (English) and *Aajkal* (Bengali) of Kolkata edition of the said newspapers, fixing 10.01.2020 as the last date for submitting the EoI.

10. In the meantime, 180 days' Corporate Insolvency Resolution Process (CIRP) period was to expire on 29.01.2020. Therefore, in the third CoC meeting, it was also decided that an extension of the CIRP would be sought from the Adjudicating Authority. Pursuant to this, an application was filed before the Adjudicating Authority. The Adjudicating Authority ordered the said application on 16.01.2020 allowing the extension of CIRP period for another 90 days starting on 29.01.2020.

11. Despite republication of Form G, the RP did not receive any EoI until the last date of submission. However, on 14.07.2020, the RP received an email from one Sachin Kumar Jain showing his interest in the resolution process of the corporate debtor. The RP rejected the said proposal under regulation 36A of the Insolvency and

Bankruptcy Board of India (Insolvency Resolution of Corporate Person) Regulation, 2016.

12. In the interregnum, the suspended board of directors provided a few records and documents upon perusal of which the RP formed an independent opinion that there were certain preferential and extortionate transaction and an application against the same has been filed before the Adjudicating Authority. An application against rejection of claim by the RP of Kohinoor Steel Pvt. Ltd. is also pending adjudication of this Adjudicating Authority.

13. In the fourth CoC meeting held on 17.07.2020, due to considerable lapse of time and no EoI having been received even after publishing the Form G twice, *inter alia,* it was decided by 100% votes that the Corporate Debtor be liquidated.

14. We have considered the submission made by the ld. Counsel appearing for the Applicant and perused the record.

15. This is a case where no Resolution Plan was received even after extension of the time for receipt of the same. Section 33(2) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Debtor where the resolution professional, at any time during the CIRP but before confirmation of the resolution plan, intimates the Adjudicating authority of the decision of the CoC approved by not less than sixty-six percent of the voting share, to liquidate the Corporate Debtor. In the present case, the CoC has resolved by 100% voting share to liquidate the Corporate Debtor.

16. This Bench, therefore, hereby orders as follows: -

a. IA No. 667/KB/2020 filed by Dipti Ranjan Nath, RP of Giridhan Projects Private Limited, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;

b. Mr. Pramod Kumar Singh [Reg. No. IBBI/IPA-002/IP-N00678/2018-2019/12039, is hereby appointed as liquidator as provided under section 34(1) of the Code, subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019.

c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, *i.e., Financial Express* (English) and *Aajkal* (Bengali) of Kolkata edition of the said newspapers stating that the Corporate Debtor is in liquidation.

e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.

f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

g. On initiation of the liquidation process but subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.

h. In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a 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.

i. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, Kolkata, within whose jurisdiction the Corporate Debtor is been registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.

17. The application bearing **IA (IB) No. 667/KB/2020** shall stand disposed of in accordance with the above directions.

18. **CP (IB) No. 718/KB/2019** to come up for filing of periodical report on **26.04.2021**.

19. The applicant had also prayed for exclusion of 128 from the CIRP period, however, the prayer has become infructuous in light of the aforementioned order of liquidation.

20. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their ld. Counsel for information and for taking necessary steps.

21. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Harish Chander Suri
Member (Technical)

Rajasekhar V.K.
Member (Judicial)

02.02.2021

*SR (LRA)*