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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)

CP (IB) No.1488/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:

**First Cargo Movers**, represented by its proprietor Subhash Chandra Ghosh, having its registered office at Line No.1, Kashidih, Near Sagar Hotel, Sakchi, Jamshedpur- 831001;

... Operational Creditor

-Versus-

In the matter of:

**Puneet Ispat Private Limited** having its registered office at 50, Chowringhee Road, 2<sup>nd</sup> floor, Kolkata- 700 071;

... Corporate Debtor

Counsel appeared:

1. Mr. Rakesh Agarwal ] Resolution Professional
2. Mr. Sristi Barman Roy, Advocate
3. Mr. Anujit Biswas, Advocate

**Date of Pronouncement of Order: 03.01.2020**

**ORDER**

M/s. First Cargo Movers, the operational creditor filed application under section 9 of Insolvency & Bankruptcy Code, 2016 (in short, I&B Code) against M/s. Puneet Ispat Private Limited, the corporate debtor to start Corporate Insolvency Resolution Process (in short, CIRP) of the corporate debtor on the ground that the corporate debtor committed default in paying the operational debt of Rs.8,61,100/-.

2. By order dated 20.08.2019, corporate debtor has been admitted in CIRP. Mr. Rakesh Agarwal, having registration no. IBBI/IPA-001/IP-P00443/2017-2018/10786 was appointed as the IRP. On 24.08.2018, IRP made public announcement of the CIRP of the corporate debtor and called upon its other creditors to submit claims with the proof. Except the applicant/operational creditor, no other creditor submitted any claim. Hence, IRP formed CoC consisting of the operational creditor allotting 100% voting powers as contemplated under section 21(8) of IBC.

3. Appointment of IRP was confirmed as the RP by the CoC. RP has noted that corporate debtor does not have the assets, land and building, plant or machinery, etc. (at page 16 of second progress report). It appears that he appointed valuer to ascertain the assets of the corporate debtor. Valuer noted that the corporate debtor has cash in hand of a sum of Rs.22,273/- and bank balance in current account of sum of Rs.30,616/-. RP also prepared information memorandum. He published notice calling upon the prospective bidder to submit resolution plan. He did not get any response from any such bidder.

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The CoC in its meeting dated 16.12.2019 passed resolution by 100% votes requesting this authority to pass order of liquidation of the corporate debtor.

4. It is now settled law that CoC is the final authority as far as acceptance/rejection of the resolution plan for the corporate debtor and/or to direct this authority to pass order of liquidation of the corporate debtor. In this case, we have also found that the corporate debtor does not have any tangible assets. The RP noted in the second progress report that in the year 1917-1918 (without specifying the date and the name of the purchaser), the corporate debtor had sold land and building. But since no specific date is mentioned, we are unable to ascertain whether it was sold during the pendency of this proceeding or not.

5. At this stage, we are not entering into that inquiry. We found that since no resolution plan is received to resolve the insolvency of the corporate debtor and the CoC passed resolution to pass order of liquidation of the corporate debtor, we accept their request to pass order of liquidation of the corporate debtor under section 33 of I&B Code. Hence, we proceed to pass order requiring the Corporate Debtor to be liquidated in the manner as laid down in the Chapter III of Part II of I&B Code. We also pass an order under section 33 of the I&B Code, 2016 to start process of liquidation of the Corporate Debtor as by the following order:

### ORDER

1. By this order, Corporate Debtor- **Puneet Ispat Pvt. Ltd.** is liquidated.
2. Mr. Rakesh Agarwal, having registration no. IBBI/IPA-001/IP-P00443/2017-2018/10786 is appointed as the Liquidator.

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3. Mr. Rakesh Agarwal 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.

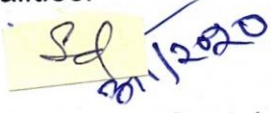
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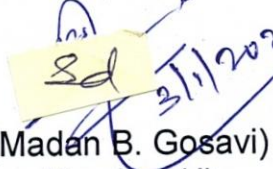
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10. Registry is hereby directed to communicate the order to the RP, Operational Creditor, Corporate Debtor and the Liquidator by Speed Post and also by email for information and for taking necessary steps.

11. CP(IB) No.1488/KB/2018 stands disposed off.

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

  
(Virendra Kumar Gupta)  
Member(T)

  
(Madan B. Gosavi)  
Member (J)

*Signed on this, the 3<sup>rd</sup> day of January, 2020.*