

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

CP(IB) No. 695/KB/2017

In the matter of:

Section 7 of the Insolvency and Bankruptcy code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

And

In the matter of:

M/s. Olympia Credits & Mercantile Private Limited, a company within the meaning of the Companies Act, 2013, having its Registered Office at Sikkim House, 4th Floor, 4/1, Middleton Street, Kolkata- 700 071.

- Financial Creditor

Versus

In the matter of:

M/s. Prithvi Finvest Co. Private Limited, a company within the meaning of The Companies Act, 2013, having its Registered Office at CF 361, Salt Lake City, Sector I, Kolkata – 700 064.

Corporate Debtor

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**Coram: Shri. Jinan K.R., Member(Judicial) &
Shri. Harish Chander Suri, Member(Technical)**

Counsel on Record:

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| 1. Mr. Kumarjit Bannerjee, Advocate |] | |
| 2. Ms. Sanchari Chakraborty, Advocate |] | For COC |
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| 1. Mr. Jitendra Lohia, RP |] | |
| 2. Mrs. Manju Bhuteria, Advocate |] | For RP |
| 3. Mr. Saurav Jain, Advocate |] | |
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| 1. Mr. Rahul Auddy, Advocate |] | Gokul Leasing - CA(IB)
No. 884/KB/2019 |
| | | |
| 1. Mr. Rishav Banerjee, Advocate |] | For CA(IB) No. 372, 373 & |
| 2. Mr. Rajarshi Banerjee, Advocate |] | 390/ KB/2019 |
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| 1. Mr. Sunanda De Sarkar, Advocate |] | For CA(IB) No. 1411/KB |
| 2. Mr. Anirudhya Dutta, Advocate |] | /2019 |
| | | |
| 1. Mr. Ajay Dubey, Advocate |] | For CA(IB) No. 1440/KB/2019
& CA(IB) No. 1306/KB/2019 |

Date of pronouncement of Order : 02/12/2019

ORDER

Per Shri Jinan K. R., Member(Judicial):

1. This Application has been filed by **Olympia Credits & Mercantile Pvt. Ltd.**, under Section 7 of the Insolvency &





Bankruptcy Code, 2016, for initiating CIRP process as against the Corporate Debtor, Prithvi Finvest Co. Pvt. Ltd. This application has been admitted vide Order dated 15-01-2018 by appointing Mr. Rajesh Kumar Kejriwal as the IRP, who was subsequently replaced by one another Resolution Professional, Mr. Jitendra Lohia. Mr. Jitendra Lohia continued the CIRP process. However, he got only one interest from a Resolution Applicant and the CIRP was ended without obtaining a Resolution Plan. In the meanwhile, CIRP period of 270 days was expired on 11-10-2018 and thereafter, period of 330 days also was expired.

2. Vide Order in **Appeal, (AT)(Insolvency) No. 588 and 589 of 2018, dated 27-09-2018**, the Hon'ble Appellate Tribunal restrained this Tribunal from approving the Resolution Plan, if any under Section 31 of the Insolvency & Bankruptcy Code, 2016 nor any order of liquidation be passed under Section 33(1)(a) of the Code. The above said appeal was dismissed vide Order dated 18-11-2019 and in the meanwhile, 330 days period of CIRP has already been expired and the Ld. RP submits that there was only one expression of interest received from a prospective Resolution Applicant.
3. He called for 9th COC meeting on 21-09-2018 to discuss the Resolution Plan obtained by him. According to him, in response to EOI, one of the interested Applicant i.e. Prithvi Nirman Private Limited has submitted a Resolution Plan but the same was not fully complied with the applicable provisions of the Insolvency &

Bankruptcy Code, 2016. However, in the 9th COC meeting, the said Plan was discussed by the members of the COC. After discussion, the COC unanimously decided not to accept the said Plan and requested the Resolution Applicant to submit the revised Resolution Plan with change in the terms of repayment plan along with complying with the terms of the Insolvency & Bankruptcy Code, 2016. However, the revised Resolution Plan has not been submitted by the Resolution Applicant and in the 10th COC meeting held on 29-09-2018, the COC has recorded that there are no Resolution Plan resolved in the assets of the Corporate Debtor and thereby, filed the final progress report informing this Tribunal that no Resolution Plan is available for the approval of this Tribunal and therefore, an order of liquidation is to be passed.

4. The Ld. RP further submits that in view of the Order of Appellate Tribunal dated 27-09-2018, the CIRP, though has been continued and the progress report being filed, by convening the meeting of the COC, in the above said facts and situation, as there is no Resolution Plan available in the case in hand, an order of liquidation is to be passed under Section 33 of the Code. The Ld. RP also submits that CoC has approved him to continue the liquidation process and has submitted his written consent.

5. Pending consideration of final progress report filed by the RP for passing an order of liquidation the below mentioned applications come up for consideration.

CA(IB) No. 178/KB/2019,
CA(IB) No. 372/KB/2019,
CA(IB) No. 373/KB/2019,
CA(IB) No. 390/KB/2019,
CA(IB) No. 884/KB/2019,
CA(IB) No. 1306/KB/2019,
CA(IB) No. 1411/KB/2019 &
CA(IB) No. 1440/KB/2019

All the above applications were filed by some of the financial Creditors against rejection of their claim by the RP on various grounds. Upon passing an order of liquidation all these applications require no consideration. All applications are therefore liable to be dismissed, but with the liberty to resubmits their respective claims to the Liquidator.

6. In view of the above said there is no other alternative other than to pass an order of liquidation under Section 33 (1) (a) of the Code with a direction to the liquidator to consider the claims of the above referred applicants and to decide their respective claims in accordance with provisions of the Code and Regulations.





7. Accordingly, an **order of liquidation** is passed upon the following directions:


ORDER

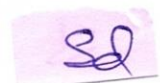
- i. **Mr.Jitendra Lohia** is appointed as the **Liquidator**.
- ii. Mr.Jitendra Lohia is directed to issue public announcement in one of the leading English newspaper as well as in one vernacular newspaper having wide circulation where the registered office of the corporate debtor is situated as per Section 33(1) (b) (ii) of the Code read with Reg. 12 (1) of IBBI (Liquidation Process) Regulations, 2016.
- iii. 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.
- iv. 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.
- v. 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.

32

32

- vi. 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.
- vii. 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 with in 75 days from the liquidation commencement date and continue to file **progress reports** as per Reg.15(1) with in 15 days after the end of the quarter in which he is appointed.
- viii. 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.
- ix. The copy of this order is to be sent to the Liquidator, Financial Creditor and the Corporate Debtor for information and for taking necessary steps.
- x. CA(IB) No. 178/KB/2019, CA(IB) No. 372/KB/2019, CA(IB) No. 373/KB/2019, CA(IB) No. 390/KB/2019, CA(IB) No. 884/KB/2019, CA(IB) No. 1306/KB/2019, CA(IB) No. 1411/KB/2019 & CA(IB) No. 1440/KB/2019 are disposed of with the direction to the liquidator to consider their claims in accordance with the provisions of the Code and regulations.





xi. Rest of the pending applications are already set apart and listed for further consideration on **20/01/2020**.

xii. Urgent photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.



(Harish Chander Suri)
Member(T)



(Jinan K.R.)
Member (J)

Signed ion this 2nd day of January, 2020.

GB/VC