

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

Comp. App. (AT) (Ins.) No. 1013 of 2022

In the matter of:

State Bank of India

....Appellant

Vs.

Bhuvee Stenovate Pvt. Ltd. & Ors.

...Respondents

**For Appellant: Mr. Vaibhav Gaggar, Mr. Robin Singh Sirohi and
 Mr. Dev Karan, Advocates.**

**For Respondents: Mr. Rishav Banerjee, Mr. Saptarshi Mandal and
 Pratiksha Mishra, Advocates for R-1.
 Mr. Abhijeet Sinha, Mr. Sanjay Bose, Mr. Manan
 Verma, Mr. Saikat Sarkar, Mr. Rishi Singhal and
 Mr. Akash Chatterjee Advocates for R-2 Mr.
 Krishan Kumar, Ms. Namrata Chadha, Advocates
 for R-5.**

**JUDGMENT
(25th January, 2023)**

Ashok Bhushan, J.

This Appeal has been filed against the order dated 16.06.2022 passed by the Adjudicating Authority (National Company Law Tribunal), Kolkata Bench-I, Kolkata in I.A (I.B.C)/469(KB)2022, IVN.P (IBC)/9(KB)2022 in C.P.(IB)/515(KB)2018. The Corporate Insolvency Resolution Process (CIRP) was initiated against 'Bhuvee Stenovate Private Limited' (Corporate Debtor) by order dated 12.03.2019. An order was passed on 07.02.2020 to liquidate the Corporate Debtor and the Respondent No.1 was appointed as the liquidator of the Corporate Debtor. The liquidator issued seven public announcements for the sale of the Corporate Debtor as a going concern under

Regulation 32A of the IBBI (Liquidation Process) Regulations, 2016. Although during the second e-auction process, second lot of the then Asset Blocks were sold successfully, however, the Corporate Debtor could not be sold as a going concern. The liquidator published the 8th auction notice on 21.01.2022, certain inventories of the Corporate Debtor consisting mainly of finished goods were successfully sold. 11th public announcement dated 15.05.2022 was issued by the Liquidator for sale of the rest of the unsold assets of the Corporate Debtor. On 04.03.2022, 4th Stakeholders' Consultation Committee meeting took place where the Liquidator updated the Stakeholders' Consultation Committee with respect to the liquidation process of the Corporate Debtor. Certain suggestions were received in the meeting regarding the manner of sell of the assets. The State Bank of India indicated that the revaluation is required to be done. It was also noticed in the minutes that the offer price of Rs.50 to Rs. 60 Crores is on a lower side than the expected amount of realization. The Liquidator stated before the Stakeholders' Consultation Committee that suggestions shall be examined and fruitful action be taken. On 12.05.2022, the Respondent No.2- 'Laser Solar LLP' submitted a proposal to the Liquidator for acquisition of the unsold assets of the Corporate Debtor by way of private sale for a sum of Rs.50.05 Crores. The Liquidator by e-mail dated 13.05.2022 informed the Respondent No.2 that offer of Rs. 50.05 Crores is well below the last reserve price published. Therefore, the offer was not acceptable. The Respondent No.2- 'Laser Solar LLP' after rejection of his offer by the Liquidator filed an I.A. No. 469 of 2022 before the Adjudicating Authority.

2. During pendency of the above Application 'M/s. Jindal Stainless Limited' has also submitted a proposal dated 04.06.2022 to acquire the Corporate Debtor as a going concern by way of private sale which offer was also rejected by liquidator by e-mail dated 06.06.2022. Thereafter, 'M/s. Jindal Stainless Limited' filed an Intervention P. No. 9 of 2022 in I.A. No. 469 of 2022 before the Adjudicating Authority praying for following reliefs:-

"a. Pass an order allowing Jindal Stainless Limited to intervene into the proceeding initiated by Laser Solar LLP in I.A. No. (I.B.C.)/469/(KB)2021 in CP(IB) No. 515/KB/2018;

b. Pass an order dismissing I.A. No. (I.B.C.)/469/(KB)2021 in CP(IB) No. 515/KB/2018;

c. Pass an order directing the Liquidator to consider the bid of Jindal Stainless Limited to run any fair and transparent process in accordance with the Liquidation Regulations for the sale of the Corporate Debtor and/or its assets"

3. I.As filed by the Respondent No.2- 'Laser Solar LLP' and 'M/s. Jindal Stainless Limited' were listed before the Adjudicating Authority on 07.06.2022 and 10.06.2022. By an order dated 10.06.2022, the Adjudicating Authority directed both Respondent No.2 and 'M/s. Jindal Stainless Limited' to submit their respective bids under cover of sealed envelope before the Adjudicating Authority on or before 13.06.2022. The Liquidator was present before the Adjudicating Authority on the said dates. The competitive bids which were

received by the Adjudicating Authority from Respondent No.2 and 'M/s. Jindal Stainless Limited' were opened on 16.06.2022 in open Court and the Adjudicating Authority noted that the Respondent No.2 has submitted a bid of Rs.61.05 Crores for the properties, whereas 'M/s. Jindal Stainless Limited' has submitted a bid of Rs.52.50 Crores. The Adjudicating Authority by the order dated 16.06.2022 confirmed the sale by private treaty in favour of the highest bidder i.e. Respondent No.2- 'Laser Solar LLP' and directed the liquidator to take further steps in accordance with law. 'M/s. Jindal Stainless Limited' made a request before the Adjudicating Authority to stay the confirmation for 48 hours to see if 'M/s. Jindal Stainless Limited' wanted to match the offer. The said prayer was declined. The Appellant who is a Financial Creditor of the Corporate Debtor and is also 36% shareholder in the Shareholders' Consultation Committee has filed this Appeal challenging the order dated 16.06.2022.

4. We have heard Shri Vaibhav Gaggar, Learned Counsel for the Appellant, Shri Rishav Banerjee, Learned Counsel for the Respondent No.1 and Shri Abhijeet Sinha, Learned Counsel for the Respondent No.2. We have also heard Learned Counsel for the other Respondents.

5. Learned Counsel for the Appellant challenging the impugned order submits that the Adjudicating Authority exceeded its jurisdiction in asking the only two Applicants who were before the Adjudicating Authority to submit their bids and on the basis of the said bid has confirmed auction of assets of the Corporate Debtor. It is submitted that the IBC provides manner and procedure for liquidation and as per Section 33, it is the liquidator who has

to conduct the sale of the assets either by public auction or by private sale. For conducting private sale, procedure is prescribed under Schedule-I of the IBBI (Liquidation Process) Regulations, 2016. For conducting a private sale also, a manner and procedure is prescribed. Liquidator has not conducted any private sale as per the IBBI (Liquidation Process) Regulations, 2016 and the Adjudicating Authority could not have itself conducted the private sale and confirmed the private sale. The last reserve price of public auction was about Rs.181 Crores. The confirmation of the sale in favour of the Respondent No.2 by the Adjudicating Authority is not in accordance with the manner and procedure prescribed in the IBC. The Liquidator has already rejected the offer made by the Respondent No.2. It is further submitted that the Appellant was not even informed of the Application I.A No. 469/2022 nor the Stakeholders' Consultation Committee was informed about the proceedings before the Adjudicating Authority and without taking consultation from the Stakeholders' Consultation Committee the order has been passed. It is submitted that the Liquidator has also during the hearing before the Adjudicating Authority has expressed its objection to the offer of the Respondent No.2.

6. Learned Counsel for the Liquidator submitted that the Liquidator has already rejected the offer received by the Respondent No.2 as it being much lower to the last reserve price which was Rs.181 Crores. It is submitted that the liquidator was present before the Adjudicating Authority and has communicated its objection to the offer of the Respondent No.2. However, after the order was passed by the Adjudicating Authority, the liquidator under

the direction issued by the Adjudicating Authority has issued the Sale Certificate in favour of the Respondent No.2. On 25.06.2022, the liquidator has also distributed sale proceed to the Appellant also. It is submitted that before the Adjudicating Authority, liquidator has informed that Stakeholders' Consultation Committee has already rejected the proposal of private sale and has formed an opinion that an Application has to be filed before the Adjudicating Authority for revaluation of the Corporate Debtor.

7. Shri Abhijeet Sinha, Learned Counsel appearing for the Respondent No.2 refuting the submissions of the Counsel for the Appellant submits that in spite of several public auctions, no bidder came to take the Corporate Debtor. The Stakeholders' Consultation Committee in its minutes has also noted that the offer which was being received before the Adjudicating Authority where between range of Rs.50 Crores to Rs. 55 Crores whereas sale in favour of the Respondent No.2 has been confirmed of Rs.61.05 Crores. It is submitted that the Appeal has neither been filed by the Liquidator nor by 'M/s. Jindal Stainless Limited' and the Appellant has also not brought before this Tribunal any prospective buyer who can submit a better offer than one given by the Respondent No.2. After various failed attempts in auction process, the Adjudicating Authority thought it fit to accept the private bid for which there is no bar in law. It is submitted that the Liquidator has already issued sale certificate to the Respondent No.2. Respondent No.2 has taken the possession of the assets of the Corporate Debtor and is running the Corporate Debtor and incurring expenses.

8. We have heard Learned Counsel for the parties and perused the record.

9. The manner and procedure under which liquidator shall proceed to auction/ sell the assets of the Corporate Debtor has been provided in the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. Regulation 32 provides for 'sale of assets'. Regulation 32-A provides for 'sale as a going concern'. Regulation 33 deals with 'mode of sale'. Regulation 33 which is relevant for the present case is as follows:-

"33. Mode of sale.-(1) *The liquidator shall ordinarily sell the assets of the corporate debtor through an auction in the manner specified in Schedule*

(2) The liquidator may sell the assets of the corporate debtor by means of private sale in the manner specified in Schedule I when-

- (a) the asset is perishable;*
- (b) the asset is likely to deteriorate in value significantly if not sold immediately;*
- (c) the asset is sold at a price higher than the reserve price of a failed auction; or*
- (d) the prior permission of the Adjudicating Authority has been obtained for such sale:*

Provided that the liquidator shall not sell the assets, without prior permission of the Adjudicating Authority, by way of private sale to-

- (a) a related party of the corporate debtor;*
- (b) his related party; or*
- (c) any professional appointed by him.*

(3) The liquidator shall not proceed with the sale of an asset if he has reason to believe that there is any collusion between the buyers, or the corporate debtor's related parties and buyers, or the creditors

and the buyer and shall submit a report to the Adjudicating Authority in this regard, seeking appropriate against the colluding parties."

10. Regulation 33(1) provides that ordinarily the liquidator shall sell the assets of the Corporate Debtor through an auction in the manner specified in Schedule I. Sub-regulation (2) of Regulation 33 also empowers the liquidator to sell the assets of the Corporate Debtor by means of private sale in the manner specified in Schedule I. Schedule I of the Regulations has two clauses. Clause (1) deals with 'auction' and Clause (2) deals with 'private sale'. Clause (2) of Schedule-I is as follows:-

"2. PRIVATE SALE

(1) Where an asset is to be sold through private sale, a liquidator shall conduct the sale in the manner specified herein.

(2) The liquidator shall prepare a strategy to approach interested buyers for assets to be sold by private sale.

(3) Private sale may be conducted through directly liaising with potential buyers or their agents, through retail shops, or through any other means that is likely to maximize the realizations from the sale of assets.

(4) The sale shall stand completed in accordance with the terms of sale.

(5) Thereafter, the assets shall be delivered to the purchaser, on receipt of full consideration for the assets, in the manner specified in the terms of sale."

11. Present is a case where assets were notified for public auction. Last public auction was notified on 01.06.2022 by notice dated 15.05.2022. Auction was to be held in four lots. The reserve price as mentioned in the last public auction was about Rs. 181 Crores. While noticing the facts as above, we have noted that the Respondent No.2 has given an offer to the liquidator on 12.05.2022 to acquire the assets by way of private sale of Rs.50.05 Crores which offer was rejected by the Liquidator on 13.05.2022 and it was thereafter Respondent No.2 filed an Application being I.A No. 469 of 2022 before the Adjudicating Authority where making following prayers:-

"a. An order directing the Respondent to allow the Applicant to accept the offer of the Applicant and sale and transfer the Corporate Debtor through a private sale on a going concern basis in accordance with the provisions of the Code and the relevant regulations made there under.

b. Ad Interim order restraining the Respondent to proceed with any auction in respect of the assets of the Corporate Debtor."

12. In the Application, the Respondent No.2 was praying for a direction to liquidator to accept the offer of the Respondent No.2 and transfer the Corporate Debtor through a private sale on a going concern basis in accordance with the provisions of the Code. The manner and procedure of conducting the private sale is governed by Regulations and the liquidator is empowered to conduct sale of the assets by means of private sale in the manner specified in Schedule-I. We have noticed the provisions of Clause (2)

of Schedule-I which is a procedure for private sale. One of the requirements of the Regulation is that Liquidator is to prepare a strategy to approach interested buyers for assets to be sold by a private sale. As per the Regulations, the private sale has to be conducted in a manner so as to maximise the realisations from the sale of assets. The liquidator, thus, for conducting private sale is not to identify one buyer and sell the assets rather strategy has to be made to approach the interested buyer for assets which is with the object to attract more and more interested buyers to maximise the realisations from the sale of assets. 4th meeting of the Stakeholders' Consultation Committee held on 04.03.2022 has been brought on record where several suggestions were given to the Liquidator for the sale of the assets by different means. With regard to fresh valuation as suggested by the State Bank of India, the Bank of Baroda has also agreed to the suggestion and it was noted that the said can be done with the permission from the Adjudicating Authority. From the record, it is also clear that the liquidator did not file any application for obtaining any permission from the Adjudicating Authority for private sale and the Adjudicating Authority, on an application submitted by the Respondent No.2 making an offer and another intervenor- 'M/s. Jindal Stainless Limited', directed both to submit their bids in a sealed cover. The Adjudicating Authority on being satisfied that two bidders have come up before the Court showing their interest to acquire the Corporate Debtor, the Adjudicating Authority could have directed the liquidator to conduct the private sale so that apart from Respondent No.2 and 'M/s. Jindal Stainless Limited' if any other interested person wanted to participate, opportunity ought to have been given. The liquidator under the statutory

Scheme of the IBBI (Liquidation Process) Regulations, 2016 have been empowered to take a decision regarding sale of the assets of the Corporate Debtor. It is relevant to notice that the offer of the Respondent No.2 was rejected by the Liquidator.

13. The Hon'ble Supreme Court had occasion to consider the provisions of Liquidation Regulations, 2016 in reference to conduct of sale by liquidator in ***“R.K. Industries (Unit-II) LLP vs. H.R. Commercial Private Limited and Ors.- 2022 SCC OnLine SC 1124”***. In the above case, Stakeholders' Consultation Committee adopted the Swiss Challenge Process for sale of the assets of the Corporate Debtor. The second Swiss Challenge process was initiated where certain bids were received by the liquidator which was not completed. In second Swiss Challenge process, one 'H.R. Commercial Private Limited' filed an I.A challenging the bid process in second Swiss Challenge process where interim order was passed. The Appellant- 'R.K. Industries' filed an Appeal before the Appellate Tribunal which Appeal was disposed of directed the Adjudicating Authority to decide the I.A filed by 'H.R. Commercial Private Limited'. NCLT has passed an order permitting the liquidator to go for private sale of the assets of the Corporate Debtor which order was challenged by 'R.K. Industries' in the Appeal which was dismissed. In the above context, the Hon'ble Supreme Court had occasion to consider the provisions of Sections 33 & 35 of the Code as well as the Regulations 32, 33 and Schedule-I of the IBBI (Liquidation Process) Regulations, 2016. The Hon'ble Supreme Court after noticing the aforesaid provisions laid down in paragraphs 43 and 44:-

“43. On a conjoint reading of the aforesaid provisions of the IBC and the Liquidation Regulations, it is evident that the Liquidator is authorized to sell the immovable and movable property of the Corporate Debtor in liquidation through a public auction or a private contract, either collectively, or in a piecemeal manner. The underlying object of the Statute is to protect and preserve the assets of the Corporate Debtor in liquidation and proceed to sell them at the best possible price. Towards this object, the provisions of the IBC have empowered the Liquidator to go in for a public auction or a private contract as a mode of sale. Besides reporting the progress made, the Liquidator can also apply to the Adjudicating Authority (NCLT) for appropriate orders and directions considered necessary for liquidation of the Corporate Debtor. The Liquidator is permitted to consult the stakeholders who are entitled to distribution of the sale proceeds. However, the proviso to Section 35(2) of the IBC makes it clear that the opinion of the stakeholders would not be binding on the Liquidator. Regulation 8 of the Liquidation Regulations refers to the consultative process with the stakeholders, as specified in Section 35(2) of the IBC and states that they shall extend all necessary assistance and cooperation to the Liquidator for completing the liquidation process. Regulation 31A has introduced a Stakeholders' Consultation Committee that may advise the Liquidator regarding sale of the assets of the Corporate Debtor and must be furnished all relevant information to provide such

advice. Though the advice offered is not binding on the Liquidator, he must give reason in writing for acting against such advice.

44. When it comes to the mode of sale of the assets of the Corporate Debtor, whether immovable or movable and other actionable claims, Regulation 33 of the Liquidation Regulations comes into play and states that ordinarily, the Liquidator will sell the said assets through auction, as specified in Schedule-I(1). Sub-section (2) of Section 33, IBC gives an option to the Liquidator to sell the assets of the Corporate Debtor through a Private Sale, in the manner set out in Schedule-1 (2). Regulation 33 of the Liquidation Regulations is couched in a language which shows that ample latitude has been given to the Liquidator, who may "ordinarily" sell the assets through auction thereby meaning that in peculiar facts and circumstances, the Liquidator may directly go in for a Private Sale. To avoid the pitfalls of disposing of the assets by conducting a Private Sale for the Pittance, Regulation 33 has prescribed some stringent conditions that the Liquidator is under an obligation to comply. The said pre- conditions are that (i) the asset is perishable; (ii) the asset is likely to deteriorate in value significantly if not sold immediately; (iii) the asset is sold at a higher price than the reserved price of the failed auction; and (iv) the Adjudicating Authority (NCLT) must grant prior permission for such a sale. The proviso appended to Regulation 33(2) of the Liquidation Regulations places yet another embargo to the effect that when the Liquidator intends to sell

the assets of the Corporate Debtor by way of a Private Sale to a related party of the Corporate Debtor, his relative party or any professional appointed by him, it is mandatory to obtain prior permission of the Adjudicating Authority (NCLT). Even the mode of sale has been regulated under the Liquidation Regulations for both, a public auction and a Private Sale. All the above dos and don'ts have been inserted to protect the assets of the Corporate Debtor and safeguard the interest of the stakeholders.”

14. The Hon’ble Supreme Court in the above case has laid down that Regulation 33 prescribed some stringent conditions that the liquidator is under an obligation to comply. The Hon’ble Supreme Court has further held in the above case that the Appellant- ‘R.K. Industries’ who was submitted a bid and was declared as the Anchor Bidder does not have any right to insist that the said process be taken to its logical conclusion. Thus, a person who was selected as Anchor Bidder i.e. highest bidder in a Swiss Challenge Method is not clothed with any right to insist that he be treated as Anchor Bidder so that process be completed. In paragraphs 52 & 53, following has been laid down:-

“52. Merely because the appellant herein had submitted a bid under the Anchor Bid Document and was declared as the Anchor Bidder in the Second Swiss Challenge Process, could not vest a right on it for it to insist that the said process must be taken to its logical conclusion. The appellant

has been harping about the vested right that had allegedly accrued in its favour on being declared as the Anchor Bidder. But it has conveniently glossed over an affidavit dated 23 March, 2021 filed by it, undertaking inter alia that it would remain unconditionally and irrevocably bound by the Swiss Challenge Process Document and the decision of the respondent No. 2 Liquidator. Given the aforesaid terms and condition of the Anchor Bid Document and the Second Swiss Challenge Process Document, read collectively with the unqualified undertaking given by the appellant acknowledging that the respondent No. 2 - Liquidator was well empowered to cancel/modify or even abandon the said process, it does not lie in the mouth of the appellant to urge that once it was set into motion, there was no justification to discontinue the Second Swiss Challenge Process. No special rights came to be bestowed on the appellant as the Anchor Bidder for it to insist that the said process ought to be taken forward and concluded, irrespective of the subsequent decision taken by the respondent No. 2 Liquidator, backed to the hilt by the stakeholders of discontinuing the Swiss Challenge Process and opting for Private Sale of the consolidated assets of the Corporate Debtor to be conducted through direct negotiations

53. To put it otherwise, an Anchor Bidder has no vested right beyond the ROFR, being the origination of the proposal. It must be borne in mind that the Swiss Challenge Process is just another method of private participation that has

been recognized by this Court for its transparency [Refer Ravi Development (supra)]. Ultimately, the IBC has left it to the discretion of the Liquidator to explore the best possible method for selling the assets of the Corporate Debtor in liquidation, which includes Private Sale through direct negotiations with the object of maximizing the value of the assets offered for sale.”

15. In the present case, Respondent No.2 who was the Applicant making an offer to acquire the assets of the Corporate Debtor was at best an offeror whose offer was required to be tested with any other willing interested person and the Adjudicating Authority ought to have asked the liquidator to conduct the private sale and give opportunity to others to compete since the maximisation of the assets of the Corporate Debtor is the object of the IBC. Merely on the basis of one application and other by an intervenor, the Adjudicating Authority could not have concluded the sale in favour of the Respondent No.2. The liquidator has earlier rejected the offer given by the Respondent No.2 which clearly meant that the liquidator was not satisfied with the offer made by Respondent No.2 which was far below the last reserve price of Rs.181 Crores. The Hon'ble Supreme Court in the above judgment has held that it is not for the Court to substitute its decision taken by the Liquidator.

16. In the facts of the present case, we are of the view that the Adjudicating Authority by adopting a process of taking two bids, one by the Applicant and another by intervenor could not have concluded the sale of the Corporate Debtor without giving an opportunity to the liquidator to take steps for private

sale. In the present case, the facts clearly indicate that the liquidator has not embarked upon private sale process nor had sought any permission from the Adjudicating Authority to proceed with the private sale. Thus, private sale procedure by the liquidator was not in place to know as to whether there are other interested bidders who are interested to acquire the Corporate Debtor by means of private sale. Without giving opportunity to the liquidator to take steps to sell the assets of the Corporate Debtor by private sale, the Adjudicating Authority itself has taken two bids and confirmed the sale, which according to us, is not the proper procedure for maximisation of the assets of the Corporate Debtor.

17. Learned Counsel for the Respondent No.2 submitted that the Appellant has not brought any prospective bidder who is ready to offer any higher amount. Learned Counsel for the Appellant has submitted that after passing of the impugned order, he has received a letter from one 'Jagdamba Cutlery Limited' where it has written that it is ready to offer a better price. The Appellant, who is a Financial Creditor has stake in the assets of the Corporate Debtor, has every right to question the order of the Adjudicating Authority even though the Liquidator has chosen not to challenge the order. Liquidator issued the Sale Certificate in favour of the Respondent No.2 only as per the direction issued by the Adjudicating Authority dated 16.06.2022. We also need to notice the fact that in pursuance of the impugned order, the Sale Certificate has also been issued to Respondent No.2.

18. In view of the foregoing discussions, we are unable to uphold the order of the Adjudicating Authority dated 16.06.2022 confirming the sale in favour

of the Respondent No.2 on the basis of bids received by the Respondent No.2 and one intervenor before the Adjudicating Authority. An opportunity has to be given to the Liquidator to explore the possibility of conducting a private sale to elicit any higher offer for the assets of the Corporate Debtor than to one given by the Respondent No.2. We also are of the view that in event no higher offer comes in a process which is undertaken by the liquidator in pursuance of this order to one which has been given by the Respondent No.2, the Respondent No.2 be allowed to retain the Corporate Debtor. Ends of justice be served in disposing this Appeal with following directions:-

- (i) The order dated 16.06.2022 passed by the Adjudicating Authority approving the private sale of the Corporate Debtor by private treaty in favour of Respondent No.2 is set aside.
- (ii) The liquidator is permitted to conduct a private sale of the assets of the Corporate Debtor by adopting Swiss Challenge Method treating the bid offered by the Respondent No.2 as an Anchor Bid.
- (iii) The Liquidator shall issue public notice of the Swiss Challenge Method and publish terms and conditions for participating in the Swiss Challenge Method by the interested bidders. On completion of Swiss Challenge Method, in event any higher bid is received than the bid offered by the Respondent No.2 of Rs.61.05 Crores, the bid of the higher bidder shall be confirmed, consequently rejecting the bid of Respondent No.2
- (iv) Consequent to acceptance of bid of any higher bidder, the effect of the order dated 16.06.2022 including the sale certificate issued

in favour of Respondent No.2 shall be reversed and Respondent No.2 shall be obliged to restore the assets of the Corporate Debtor to the Liquidator to be handed over to the highest bidder.

- (v) The Liquidator shall be entitled to return the amount of consideration received from the Respondent No.2 out of the sale proceeds of higher bid, of course, with liberty to adjust any loss and damage to the assets of the Corporate Debtor which could have happened in the interregnum period.
- (vi) In event no higher bid is received, the bid of Respondent No.2 of Rs. 61.05 Crores shall be confirmed and Sale Certificate be issued in favour of the Respondent No.2, to be operative from the date of earlier sale certificate.

19. The process as directed by this order shall be completed by the Liquidator within the period of three months from today and an appropriate report of the proceedings taken by the liquidator and the outcome shall be filed before the Adjudicating Authority by the liquidator. No costs.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Anjali