

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH: C-IV

IA-5316(MB)2023 IN C.P. (IB)/758(MB)2021

Under Section 33(1) of Insolvency &
Bankruptcy Code, 2016.

Mr. Yatinkumar Sumatilal Shah

...Resolution Professional/
Applicant

In the matter of

Saite Power Source (HK) Co. Limited

...Operational Creditor

Vs.

**Global Powersource (India) Private
Limited.**

...Corporate Debtor

Ordered pronounced on: **06.12.2023**

Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant/RP

: Mr. Mayank Padiya, Adv.

ORDER

1. This is an application filed by Mr. Yatinkumar Sumatilal Shah, Resolution Professional of the Corporate Debtor seeking liquidation of

Global Powersource (India) Private Limited under Section 33(2) of Insolvency and Bankruptcy Code, 2016 (hereinafter called as the "Code").

Brief facts of the Application are as follows:

2. This Tribunal vide an order dated 17.02.2023, in Company Petition bearing C.P. (IB)/758(MB)2021 filed under Section 9 of the Code, by Saite Power Source (HK) Co. Limited (hereinafter referred to as the "Operational Creditor"), admitted the petition and Corporate Insolvency Resolution Process (CIRP) was initiated against Global Powersource (India) Private Limited [CIN: U74140MH2006PTC163562] (hereinafter called as the "Corporate Debtor"). The applicant was appointed as Interim Resolution Professional by this Tribunal vide order dated 17.02.2023 and was confirmed as Resolution Professional in the first CoC meeting held on 20.03.2023.
3. The Applicant further submits that on 18.04.2023, he published Form G inviting Expression of Interest (EoI) from prospective resolution applicants under, section 30(6) of the Code.
4. The Applicant further submits that as there being no successful resolution applicants, the CoC in its 6th meeting held on 03.11.2023, resolved to liquidate the Corporate Debtor. The resolution to initiate liquidation proceedings was passed with 89.12% voting of the CoC. The same are reproduced below:

"RESOLVED THAT as per RESOLVED THAT as per the provisions of Section 33 (2) and due to non- receipt of commercially acceptable

Resolution Plan, the CoC of Global Powersource (India) Private Limited ("Corporate Debtor") hereby approves for liquidation of the Corporate Debtor and authorises the Resolution Professional to file necessary application to initiate liquidation process of the Corporate Debtor.

RESOLVED FURTHER THAT as per the provisions of Reg. 39D of the CIRP Regulations r/w Reg. 4 (1) of the Liquidation Regulations, Mr. Yatinkumar Sumatilal Shah, Resolution Professional of the Corporate Debtor be and is hereby recommended to be appointed as the Liquidator of the Corporate Debtor with fees payable as per Regulation 4(2)(b) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

RESOLVED THAT in terms of the provisions of Reg 39B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Committee of Creditors hereby estimates the essential Liquidation Cost to be as under:

Particulars	Amount (Rs.)
<i>Fees of the Liquidator (per month)</i>	<i>As per Reg.4 (2) (b)</i>
<i>Cost of Public Announcement (Ref Reg 12)</i>	<i>25,000</i>
<i>Legal and professional Expenses</i>	<i>At actuals</i>
<i>Cost of Public announcement of sale notices (approx. 10 notice in one year)</i>	<i>300,000</i>
<i>Cost of conducting e-auction (approx..10 auction in one year)</i>	<i>100,000</i>
<i>Other expenses</i>	<i>At actuals</i>

RESOLVED FURTHER THAT in the event that the Liquidator is unable to meet the Liquidation Costs from the available liquid funds, the shortfall, on a monthly basis, shall be contributed by the SCC Members in proportion to their admitted claims.

RESOLVED FURTHER THAT in terms of the provisions of Reg 39C of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Liquidator shall first explore the possibility of sale of the corporate debtor as a going concern under clause (e) of regulation 32.

RESOLVED FURTHER THAT the Committee of Creditors hereby authorizes the Resolution Professional to continue to discharge his duties till the approval of liquidation by Adjudicating Authority and complete all the necessary formalities on the existing terms and conditions in relation to his fees and expenses."

RESOLVED FURTHER THAT the Committee of Creditors hereby approves the estimated legal cost of Rs. 40,000/- towards liquidation application and the same shall form part of the CIRP Cost"

5. Considering the facts and circumstances as submitted by the Applicant in the Application and Counsel appearing for the Applicant, the Bench is of the considered view that the Corporate Debtor be liquidated. Accordingly, this Bench orders that:
- a. IA-5316(MB)2023 IN C.P. (IB)/758(MB)2021 filed by the Applicant for the Liquidation of the Corporate Debtor viz. Global Powersource (India) Private Limited is **allowed** and the company to be liquidated in the following manner:
 - b. Though the CoC recommended the present RP to be appointed as Liquidator, this Bench considers to appoint another Insolvency Professional from the panel approved by the IBBI. Accordingly, this Bench hereby appoints Ms. Hetal Gaurang Kothari, having Registration No. IBBI/IPA-001/IP-P01610/2019-2020/12500

-
- (email:iphetalkothari@gmail.com Mob. 7738226617) as the Liquidator as provided under Section 34(1) of the Code to conduct the liquidation process of the Corporate Debtor.
- c. The Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
 - d. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
 - e. The Liquidator appointed under Section 34(1) of the Code, will have all powers of the Board of Directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, hereafter ceased to exist and henceforth be vested with the Liquidator.
 - f. The Corporate Debtor to be Liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the RoC under which this Company has been registered.
 - g. The personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
 - h. On having liquidation process initiated, 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 proceedings on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.

- i. This liquidation order u/s 33(7) 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.
6. With the above directions, the IA-5316(MB)2023 IN C.P. (IB)/758(MB)2021 filed u/s 33(2) by the Applicant is hereby **allowed** and disposed of.

Sd/-
ANU JAGMOHAN SINGH
Member (Technical)

Suresh 06.12.2023

Sd/-
KISHORE VEMULAPALLI
Member (Judicial)