

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 106
(IB)-275(ND)/2019

IN THE MATTER OF:

Central Bank of India

.... Petitioner/Applicant

v.

M/s. Abhinav Steel and Power Ltd.

.... Respondent

Order Under Section 7 of Insolvency & Bankruptcy Code (CIRP)

Order delivered on 02.09.2022

CORAM:

JUSTICE RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT

SH. AVINASH K. SRIVASTAVA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For Petitioner

: Mr. Pradeep Mishra, Mr. Daleep Dhyani,
Mr. Suraj Singh, Advs. in IA-1123/2021 & IA-
3314/2022

For the RP

: Mr. Shravan Kumar Vishnoi, RP with
Mr. Aditya Madaan, Mr. Aishwarya Adlukha,
Advs.

For the CoC

: Mr. Sanjay Bajaj, Mr. Vrwich Hans, Advs.

ORDER

IA-502/2022

1. This is an application filed by the Learned Counsel appearing on behalf of Resolution Professional ('RP') upon the instructions of the Committee of Creditors ('CoC') seeking liquidation of the Corporate Debtor, viz., **Abhinav Steel and Power Ltd.** [CIN: U74899DL1987PLC029384], on the ground that no resolution plan was received. The Applicant has sought for the following reliefs:

a) *Pass an order for Liquidation of the Corporate Debtor under Section 33(2) in terms of sub-clauses (1), (ii) and (iii) of sub-section (1)(b) of Section 33 of the Insolvency and Bankruptcy Code, 2016*

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b) *Appoint Mr. Debashish Nanda, Insolvency Professional having IBBI Registration No. IBBI/IPA-003/IP-N00040/2017-18/10316 as Liquidator of the Corporate Debtor as decided by CoC.*

c.) *Pass any other or further orders(s) as this Hon'ble Tribunal deem fit and proper in the facts and circumstances of the matter."*

2. This Adjudicating Authority, *vide* its order dated 31.07.2019 on a Petition filed by Central Bank of India. (*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. Shravan Kumar Vishnoi as the Interim Resolution Professional (*IRP*) who was later confirmed as RP *vide* order dated 29.09.2019.
3. The Applicant submits that as no resolution plan was received by the CoC till the last date of submission of Resolution Plan, so CoC in its 5th meeting dated 06.04.2020 decided to re- publish Form G. This Adjudicating Authority has also granted extension of further 90 days of CIRP period but in spite of publication of Form G twice , no Resolution plan was received .
4. Further, in 9th CoC meeting dated 24.07.2020, in absence of Resolution plan CoC decided to liquidate the corporate debtor with 100% voting share. Accordingly, the RP filed the application No.

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3415/2020 for liquidation on 28.07.2020. But on 11.09.2020, CoC prayed for another chance to try for resolution of the corporate debtor as in their view there was a hope for receiving the resolution plan. Therefore, on request of CoC, the liquidation application was withdrawn with approval of Hon'ble Adjudicating Authority vide order dated 11.09.2020

5. But subsequently the reason given for the prayer is that despite repeated attempts by the RP along with the CoC, they have not been able to receive any cogent Resolution Plan from any of the prospective Resolution applicants.
6. Vide minutes of the 11th CoC meeting held on 07.12.2021, it was resolved to confirm the Authorised RP for filing the application under Section 33 for liquidation. The minutes are incorporated herein below:

“The Chairman apprised the COC that Resolution Professional had received the email from the Punjab National Bank, Allahabad, (One of the Financial Creditor) with the request to again file the Liquidation Application for the Liquidation of Corporate Debtor. Therefore RP had called the 11th Meeting of Committee of Creditors to seek the approval of COC and authorise the Resolution Professional for filing the Application under Section 33 of the Insolvency and Bankruptcy Code, 2016 for the Liquidation of Corporate Debtor.

Since the members of COC were present through Video Conference mode, the approval of COC was sought for filing the application for liquidation and authorising the Resolution Professional for filing the Application under

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Hence, the RP has filed the present application under section 33(2) of the Code, before this Adjudicating Authority for liquidation of the Corporate Debtor and appointment of applicant as liquidator.

7.Ld. Counsel Mr. Sanjay Bajaj for the CoC states that CoC has taken the conscious decision to replace the erstwhile RP Mr. Shravan Kumar Vishnoi and appoint Mr. Debashis Nanda as the Liquidator and the proposed liquidator has also given his consent to act as liquidator which is placed at Pg.95 of the present application. He is stated to have a valid authorization for assignment.

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

a. Prayers as sought for in I.A.No. 502/2022 filed by Mr. Shravan Kumar Vishnoi RP of Abinav Steel and Power Ltd., 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 Debashis Nanda [Reg No IBBI/IPA-003/IP-N00040/2017-2018/10316]; Email:dnanda.cma@gmail.com; Address: Flat No C S -14, C-Floor ,Ansal Plaza, Vaishali ,Ghaziabad,Uttar Pradesh ,201010); whose name has been proposed by CoC is hereby appointed as liquidator as provided under section 34(1) of the Code, 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

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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 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. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- h. 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.
- i. 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

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the Corporate Debtor continued during the liquidation process by the Liquidator.

- j. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order to the Registrar of Companies, NCT of Delhi & Haryana; Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;
 - k. The liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.
 - l. The Liquidator shall submit Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016;
 - m. Copy of this order be sent to all the parties and their Ld. Counsel for information and for taking necessary steps.
 - n. The Registry is directed to send copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
 - o. The Liquidator is directed to complete the process early and to proceed further as per the law.
7. The application bearing **IA No. 502/2022** filed in **(IB)-275(PB)/2019** shall stand disposed of in accordance with the above directions.

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IA-1123/2021, IA-3314/2022

Both the parties are directed to sit together and reconcile their account.

At request of the Ld. Counsels for the Parties, list the matter on 03.10.2022.

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**(RAMALINGAM SUDHAKAR)
PRESIDENT**

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**(AVINASH K. SRIVASTAVA)
MEMBER (TECHNICAL)**

02.09.2022
Vinod Arora