

**NATIONAL COMPANY LAW TRIBUNA
KOLKATA BENCH
KOLKATA**

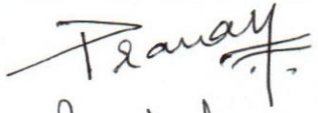
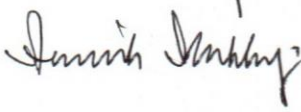
CP (IB) No. 1202/KB/2018

Present: 1. Hon'ble Member (J), Shri M.B. Gosavi

2. Hon'ble Member (T), Shri Virendra Kumar Gupta

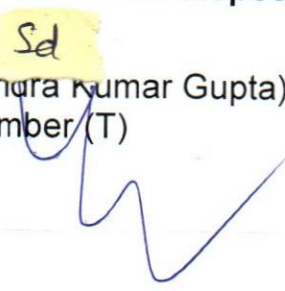
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 21st October, 2019, 10:30 A.M

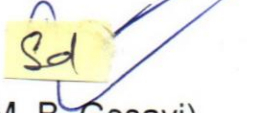
| Name of the Company | | The Baidyabati Sheoraphuli Co-Operative Bank Ltd. -Vs- Debi Fabtech Pvt. Ltd. | |
|---------------------|--|---|---------------------|
| Under Section | | 7 IBC | |
| Sl. No. | Name & Designation of Authorized Representative (IN CAPITAL LETTERS) | Appearing on behalf of | Signature with date |

| | | | |
|----|------------------------------|-----|---|
| 1. | Pranay Agarwal, Advr | RP |  |
| 2. | ANILKESH MUKHOPADHYAY RP- | RP- |  |

ORDER

Ld. RP appears alongwith the Ld. Counsel for the RP. 3rd progress report is filed. It is brought to our notice that CoC in its meeting dated 17.10.2019 by 100% votes passed resolution rejecting extension of further period of 90 days in CIRP period. CIRP period of 180 days will complete on 22.10.2019. There is no resolution plan received by CoC. In such situation, this authority is left with no other option but to pass order of liquidation of the corporate debtor. It is brought to our notice that appeal is still pending before the Hon'ble NCLAT. We pass order of liquidation subject to outcome of that appeal. Detailed order to follow. CP (IB) 1202/KB/2018 stands disposed off.


(Virendra Kumar Gupta)
Member (T)


(M. B. Gosavi)
Member (J)

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.1202/KB/2018

In the matter of:

An application for initiation of Corporate Insolvency Resolution Process under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

-And-

In the matter of:

The Baidyabati Sheoraphuli Co-operative Bank Ltd.,
6, Kalahata Lane, P.O.-Sheoraphuli, District-Hooghly-
712223, West Bengal;

... Applicant/Financial Creditor

-Versus-

In the matter of:

Debi Fabtech Private Ltd., having its registered office
At 96/3, S.C.M. Road, Suvotala, Baidyabati, West
Bengal-712222;

.... Corporate Debtor

Counsel appeared:

1. Mr. Animesh Mukhopadhyay] Resolution Professional
2. M. Pranay Agarwal, Advocate] For the R.P.

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Date of Pronouncement of Order: 21.10.2019

ORDER

The Baidyabati Sheoraphuli Co-operative Bank Ltd.- the Financial Creditor filed this application under section 7 of the Insolvency & Bankruptcy Code, 2016 (in short, I&B Code) against **Debi Fabtech Private Ltd.**- Corporate Debtor to start Corporate Insolvency Resolution Process (in short, "CIRP") of the Corporate Debtor, as the Corporate Debtor allegedly committed default in paying the financial debt of Rs.1,07,88,536/-.

2. This authority vide order dated 24.04.2019 admitted the corporate debtor in CIRP. Mr. Animesh Mukhopadhyay, having registration no.IBBI/IPA-001/IP-P00124/2017-2018/10266 was appointed as the IRP. IRP proceeded with the CIRP. He made public announcement of CIRP of the corporate debtor and called for the claim from the creditors of the corporate debtor. He verified the claims and formed the CoC. His appointment as the IRP was later on confirmed.

3. During CIRP, RP had received no resolution application. In the 8th CoC meeting on 17.10.19, it was informed that despite providing time to the directors and auditors of the corporate debtor, no communication in any form was received by the RP from the corporate debtor due to which the CIRP cannot be conducted in an efficient and time bound manner as the information memorandum could not be prepared. EoI could not be called for. No prospective resolution applicant had approached RP showing his expression towards submission of resolution plan. CIRP period of 180 days will complete on 22.10.2019. CoC in its meeting dated 17.10.2019 by 100% votes passed resolution rejecting extension of further period of 90 days in CIRP period. The above resolution was also rejected by the CoC as

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there has been no substantial development in the CIRP in the absence of pertinent documents/ records/information and constant non-cooperation of the directors and auditors of the corporate debtor. The CoC was of the view that extension of CIRP period by 90 days would only increase the CIRP cost. There is no resolution plan received by CoC. It is brought to our notice that appeal is still pending before the Hon'ble NCLAT. CIRP period will complete 180 days on 22.10.2019. In such situation, this authority is left with no other option but to pass order of liquidation of the corporate debtor.

4. It is seen from the record that RP and CoC did not receive any resolution plan. CIRP period of 180 days is completed. In such situation, we have no other option but to pass order of liquidation of the corporate debtor.

5. This Tribunal vide order dated 21st October, 2019 in this proceeding passed an order of liquidation of the corporate debtor under section 33 of IBC and it was mentioned therein that detailed order to follow. Accordingly, we pass an order under section 33 of the I&B Code, 2016 to start process of liquidation of the Corporate Debtor as follows:

ORDER

By this order, Corporate Debtor- **Debi Fabtech Private Ltd.** is liquidated subject to outcome of the appeal in Hon'ble NCLAT.

2. Mr. Animesh Mukhopadhyay, RP having registration no. IBBI/IPA-001/IP-P00124/2017-2018/10266 email id. animesh_fc@yahoo.co.in is appointed as the Liquidator.

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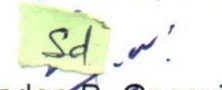
10. Registry is hereby directed to communicate the order to the RP, Financial Creditor, Corporate Debtor and the Liquidator by Speed Post and also by email for information and for taking necessary steps.

11. CP(IB) No.1202/KB/2018 stands disposed off.

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

List the matter on **07.01.2020** for filing of the progress report.


(Virendra Kumar Gupta)
Member(T)


(Madan B. Gosavi)
Member (J)

Signed on this, the 21st day of October, 2019.