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BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH AT AHMEDABAD
COURT 1

IA 51 of 2020 in [TP 101 of 2019] CP (IB) 351 of 2018

Coram: MADAN BHALCHANDRA GOSAVI, MEMBER (JUDICIAL)
VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE
INDORE BENCH AT AHMEDABAD OF THE NATIONAL COMPANY LAW TRIBUNAL ON 29.09.2020

Name of the Company:

Vichitra Narayan Pathak RP For
Laxmipati Balaji Infra Pvt. Ltd.

V/s

Punjab National Bank & Ors

Section:

33(1),33(2) & 34(1) of IBC, 2016

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court, vide separate sheet.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B. GOSAVI)
MEMBER (JUDICIAL)

Dated this the 29th day of September, 2020

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH AT AHMEDABAD
COURT 1**

**I.A. No. 51 of 2020 in [TP 101 of 2019]
C.P. (I.B.) No. 351/9/NCLT/AHM/2018**

In the matter of:

[An application filed under Section 33(1), 33(2) and 24(1) of Insolvency and Bankruptcy Code, 2016 for initiation of liquidation proceeding of Laxmipati Balaji Infra Pvt. Ltd. (the "Corporate Debtor")].

And

In the matter of:

Dr. Vichitra Narayan Pathak
Resolution Professional of
Laxmipati Balaji Infra Private Limited,
Having Office at:
120, Jharneshwar Colony,
Madhuban Vihar, Near International Public School,
Hoshngabad Road, Bhopal-462047.

..... Applicant/ RP

Versus

1. Punjab National Bank
Having office at:
Malik Market Branch,
Hamidia Road, Near Manohar Dairy,
Bhopal-462001(M.P)
2. Reliance Commercial Finance Ltd.
Having office at:
Reliance Centre, 6th Floor,
South wing, Off Western Express Highway,
Santacruz (East), Mumbai-400055,
3. Hinduja Leyland Finance Ltd.
Having office at:
Corporate Office, 27-A, Developed Industrial Estate,

Guindy, Chennai.

4. Mahindra and Mahindra Financial Service Ltd
Having Office at:
E-2/20, 1st Floor,
Kartar Tower,
Opp. Habibganj Railway Station,
Arera Colony, Bhopal-462016
5. AU Small Bank Finance Ltd.
Having Office at:
Bank House, Mile Zero,
Ajmer Road, Jaipur-302001.
6. ICICI Bank Ltd.
Having Office at Regional Office,
Plot No. Z-14, Heera Complex,
2nd Floor, Zone-1, M.P. Nagar,
Bhopal, M.P.-462016
7. Reliance Asset Reconstruction Company Ltd.
Having Office at:
Reliance Centre, 6th Floor,
North Wing, Off Western Express Highway,
Santacruz (East), Mumbai-400055.
8. Cholamandalam Investment and Finance Company Ltd.
Having Office at:
Dare House, 2, N.S.C. Bose Road,
Parry, Chennai-600001,
Local Office at:
Z-18, First Floor, Chittod D Complex,
MP Nagar, Zone-1, Bhopal-462011.
9. Volkswagen Finance Pvt. Ltd.
Having Office at:
Silver Utopia, 3rd Floor, B Wing,
Cradiani Gracious Road Chakala,
Andheri East, Mumbai-400099.
10. Ajay Patel,
Suspended Management of
Laxmipati Balaji Infra Pvt. Ltd.,

Residing at B-180 Fortune Pride,
E-8 Extension, Trilanga, Bhopal-462039.

11. Preeti Ajay Patel.

Suspended Management of
Laxmipati Balaji Infra Pvt. Ltd.
Residing at B-180, Fortune Pride,
E-8 Extension, Trilanga, Bhopal-462039.

.....Respondents.

Order Reserved on 18.09.2020
Order delivered on 29.09. 2020

Coram: Madan Bhalachandra Gosavi, Member (J)
Virendra Kumar Gupta, Member (T)

Appearance:

Learned Counsel Ms. Natasha Dhruvan Shah for the Liquidator along
with RP Dr. Vichitra Pathak.

THROUGH VIDEO CONFERENCING/PHYSICALLY

[Per: Bench]

1. The present Interlocutory Application is filed for seeking liquidation of Corporate Debtor Company by the Resolution Professional under Section 33(1), 33(2) & 34(1) of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred "IBC", 2016).
2. The Corporate Debtor was admitted into Corporate Insolvency Resolution Process (hereinafter referred "CIRP") vide order dated 07.06.2019 in an Application filed by the Operational Creditor under Section 9 of the IBC, 2016 and Interim

Resolution Professional (in short "IRP") was appointed who made public announcement of Expression of Interest in Form A on 13.06.2019. Thereafter, IRP was replaced by Committee of Creditors (in short "COC") in its first meeting dated 05.07.2019 which was approved by this Authority vide order dated 13.08.2019, further, this Adjudicating Authority had directed to re-notify the Expression of Interest. Thereafter, in compliance to the order dated 13.08.2019 the RP published the Expression of Interest (in short "EOI") in Form A in two newspaper one in Hindi "Raj Express" on 22.08.2019 and another in English "Hindustan Times" on 23.08.2019.

3. The COC in its seventh meeting dated 12.02.2020 observed that in spite of extension of CIRP period by this Adjudicating Authority no Resolution Plan had been received, hence, there was no option but to liquidate the Corporate Debtor. A resolution to this effect was passed, however, decision regarding the appointment of liquidator, determination of liquidation costs including liquidator fee were deferred to its next meeting which was held on 24.02.2020. In the eight meeting of COC held on the aforesaid date, a resolution was passed to appoint RP as liquidator who was to get a minimum Rs. 1 Lac + GST expenses and his fee was to be determined as per Regulation 4 of IBBI (liquidation process) Regulations, 2016. The manner of contribution for difference between liquidation costs over liquidation assets was also decided

wherein estimated liquidation costs were arrived at Rs. 22.00 Lakh excluding liquidator's fee.

4. Learned Counsel appeared, narrated the basic facts and drew our attention to relevant documents placed in record to support her claim that order of liquidation was an inevitable consequence in the present case.
5. We have considered the submissions made by learned counsel for the Applicant and material on record. It is an admitted fact that in spite of extension of CIRP period by 90 days no resolution has been received. The COC has unanimously, thus, decided to liquidate the Corporate Debtor since no other option is available. Although, it has been so decided but it is noted that in the said meeting the COC has not passed any resolution as regard to sale of the Corporate Debtor as a going concern, hence, the liquidator is obliged to do so as per provision of Regulation 39C(2) of IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016. We are of the considered view that the Corporate Debtor, in the background of above facts and circumstances, needs to be liquidated. Accordingly, we order as under:

ORDER

1. We pass the order for initiation of liquidation of Corporate Debtor in terms of provision of Section 33(1) of IBC, 2016 read with regulations made there-under which shall be effective from the date of this order.

2. As per the Section 34(1) of the I.B. Code, the Applicant/
Resolution professional, **Dr. Vichitra Narayan Pathak,**
(Registration No. **IBBI/IPA-001/IP-P01353/2018-
2019/12063**), e-mail- **drvnpathak@yahoo.co.in**, is
hereby appointed as a Liquidator of the company M/s.
Laxmipati Balaji Infra Private Limited having CIN
No.U70101MP2015PTC034019, which has been duly
approved by COC in its eight meeting, dated 24.02.2020.
3. All the powers of the Board of Directors, key managerial
persons, the partners of the Corporate Debtor, hereafter,
cease to exist. All these powers henceforth, vest with the
Liquidator.
4. The personnel(s) of the Corporate Debtor are directed to
extend all co-operations to the Liquidator as required by
him in managing the liquidation process of the Corporate
Debtor.
5. The Liquidator will charge fees for conduct of the
liquidation proceedings in proportion to the value of the
liquidation estate assets as specified by IBBI and the same
shall be paid to the Liquidator from the proceeds of the
liquidation estate under Section 53 of the Code.
6. That once liquidation process initiated, by virtue of Section
52 of the Code, no suit or other legal proceedings shall be
instituted by or against the Corporate Debtor save and
except the liberty to the liquidator to institute suite or

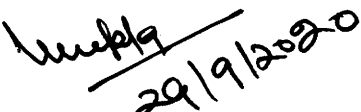
other legal proceeding on behalf of the corporate debtor with prior approval of this Adjudicating Authority as mentioned in Sub-Section 6 of Section 33 of the I.B. Code.

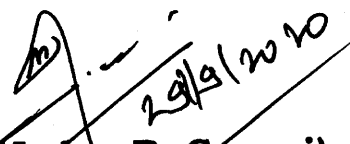
7. The Liquidator shall co-ordinate with all the authorities and the respected Government Authorities and shall provide complete information to facilitate the process of Liquidation.
8. The Liquidator is at liberty to seek any directions, if need be from this Tribunal during the Liquidation Process.
9. The Liquidator shall take necessary legal action to recover the trade receivables and other credits such as loans and advances from the parties which are reflected in the latest balance sheet of the Corporate Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed under Section 33(5) of the Code.
10. This liquidation order shall be a deemed to be 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.
11. The Moratorium declared vide order dated 07.06.2019 in CP (IB) No. 351/9/NCLT/AHM/2018, henceforth, ceases to exist. However, provision of Section 33(5) of IBC, 2016 shall continue to operate till the liquidation/dissolution shall be applicable as regard to suit or other legal

proceeding instituted by or against the Corporate Debtor.
The liquidator shall also comply with the requirements of this section in the circumstances specified therein.

12. The present I.A. No. 51 of 2020 is allowed directing the appointed Liquidator to initiate and complete liquidation process as envisaged under Chapter – III of the Code by following the liquidation process as specified in the Insolvency and Bankruptcy Board of India (liquidation process) Regulations, 2016.
13. The Registry is directed to upload this order on the Official Website within maximum two working days from the date of this order. The authenticated copy of this order be also sent by the registry to the Financial Creditor, Corporate Debtor, Registrar of the Company, Resolution Professional come Liquidator by Speed-post within one week from this order.

Accordingly, the present I.A. No. 51 of 2020 is allowed and stands disposed of.


(Virendra Kumar Gupta)
Member (Technical)


(Madan B. Gosavi)
Member (Judicial)