

NATIONAL COMPANY LAW TRIBUNAL
COURT-I, MUMBAI BENCH

Item No. 9

IA 1352/2023 (NEW IA) IA 2402/2020 IA 300/2021 IA 1946/2021 IN C.P.
(IB)/1587(MB)2019

CORAM:

SH. H. V. SUBBA RAO

MS. ANU JAGMOHAN SINGH

HON'BLE MEMBER (JUDICIAL) HON'BLE MEMBER (TECHNICAL)

ORDER SHEET OF THE HEARING ON 13.04.2023


**NAME OF THE PARTIES: IDBI Bank Ltd VS Pawar Electro Systems Pvt
Ltd**

Section 7 of the Insolvency and Bankruptcy Code, 2016 & Rule 11

ORDER

IA 1352/2023

Mr. P.S. Thakre, Authorized Representative of the Resolution Professional of the Corporate Debtor is present. The limited prayer in the present Interlocutory Application is for urgent listing of the Interlocutory Application bearing IA No. 1946 of 2021.



The above stated Interlocutory Application is now listed on Board today; hence, the prayer sought in the present Interlocutory Application is fulfilled. In that view of the matter, we need not to pass any Order regarding preponement of date of hearing of the Interlocutory Application bearing IA No. 1946 of 2021. Therefore, the Interlocutory Application bearing IA No. 1352 of 2023, is disposed of.

IA 1946/2021

1. Mr. P.S. Thakre, Authorized Representative of the Resolution Professional of the Corporate Debtor is present. The present Interlocutory Application has been filed by the Applicant, Resolution Professional of the Corporate Debtor u/s 33 of the Insolvency and Bankruptcy Code, 2016, seeking Liquidation of the Corporate Debtor, Pawar Eletro Systems Pvt Ltd.
2. The brief facts leading to the case in hand are as follows:
 - i. The Corporate Debtor was placed under CIRP vide short order dated 06.09.2019, on an Application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016, filed by IDBI Bank Limited being the Financial Creditor and Mr. Girish Siriram Juneja was appointed as Interim Resolution Professional of the Corporate Debtor on the same day.
 - ii. It is submitted that the short Order dt. 06.09.2019, passed in the Company Petition bearing CP (IB) No. 1587 of 2019, was published on the NCLT Website on 24.09.2019 and a certified copy was



obtained by the representative of IDBI Bank being the Applicant in the said matter and provided to the Interim Resolution Professional on 26.09.2019. It is further submitted that the detailed order was sent to the Interim Resolution Professional through Registry of this Tribunal by E-mail only on 12.10.2019.

- iii. Thereafter, the Interim Resolution Professional has published the public announcement in **FORM A** as per section 13 and section 15 of the Insolvency & Bankruptcy Code, 2016, in Two Newspapers on 27.09.2019 (i.e. after he found the order of the Hon'ble NCLT Mumbai Bench uploaded on the NCLT Website on 24.09.2019). Subsequently, the Interim Resolution Professional has been confirmed as the Resolution Professional of the Corporate Debtor.
- iv. Further, Resolution Professional has published the **Expression of Interest** ("EOI") in FORM G in three (3) newspapers (i.e. in Business Standard (Mumbai Edition) - English Newspaper, Free Press Journal (Mumbai Edition) - English Newspaper and Navshakti- (Mumbai Edition) - Marathi Newspaper). As per the **Form G** the last date for submission of EOI was 22.12.2019.
- v. Since no EOI had been received till the last date, RP informed the members of the Committee of Creditors that the last date for receiving the EOI was 22.12.2019, and since no EOI was received till 21.12.2019 and 22.12.2019 being a Sunday, the Resolution



Professional had sought an approval from the members of Committee of Creditors by an email dt. 21.12.2019 for the extension of EOI by 15 days. Therefore, a corrigendum was published on 23.12.2019 in the Free Press Journal, and Navshakti (Regional Language) newspapers. The revised Form G was updated on the website of the Corporate Debtor.

- vi. On 07.01.2020, Resolution Professional suggested for further extension till 23.01.2020; since, no EOI had been received. The members of Committee of Creditors approved to extend the last date for submitting the expression of interest till 23.01.2020. The corrigendum for extension of the last date of submitting the expression of interest was published on 09.01.2020 in Business Standard, Free Press Journal and Navshakti newspapers.
- vii. It is submitted that after publication of the EOI in **FORM G** the Resolution Professional was approached by **4 potential Resolution Applicants** namely, **Rare Asset Reconstruction Limited, Godrej & Boyce Mf. Co. Ltd., Neesha Electronics- Through Individual Mr. Bhagwat Narhar and Invent Assets Securitisation & Reconstruction Private Limited**, who showed their interest in submitting the Resolution Plan for the Corporate Debtor.
- viii. Finally, the Resolution Plan submitted by **M/s. Neesha Electronics** was considered and put for voting by before the Committee of



Creditors. The resolution plan submitted by **M/s Neesha Electronics- Through Mr. Bhagwat Narhar**, after due deliberation and after giving sufficient opportunity for revisions of the plan the same was to be considered by the Committee of Creditors in their 19th meeting dated 14.07.2021 and accordingly the plan was put for voting before the Committee of Creditors. The last date for voting on the plan was 23.07.2021. Pursuant to the voting results on the Resolution Plan, it is clear that the Committee of Creditors have rightly rejected the Resolution Plan with 100% voting against the Resolution Plan.

- ix. It is to be noted that the present Interlocutory Application was listed on Board on 28.06.2022, on which date the Bench has observed that as to what majority; the Committee of Creditors has approved the proposal of putting the Corporate Debtor into Liquidation and directed the Committee of Creditors to convene the meeting afresh and place on record minutes of the meeting approving the Resolution for putting the Corporate Debtor into Liquidation.
- x. Pursuant to the directions of this Bench dt. 28.06.2022, Resolution Professional of the Corporate Debtor has conveyed the said directions to the members of the Committee of Creditors and convened a meeting thereof specifically to pass the Resolution to initiate the Liquidation against the Corporate Debtor.




- xi. Accordingly, the Resolution Professional of the Corporate Debtor has filed an Affidavit on 18.07.2022, stating that the Committee of Creditors in their 22nd meeting held on 14.07.2022, have passed a Resolution for approving the Liquidation of the Corporate Debtor. The Resolution passed in the said meeting is reproduced below for the convenience:

“Resolved that pursuant to the order dated 28.06.2022 of the Hon’ble NCLT, Mumbai Bench directing the Committee of Creditors (CoC) to convene the meeting afresh to approve the Liquidation of the Corporate Debtor, the CoC be and hereby approved putting the Corporate Debtor into Liquidation”.

“Further Resolved that the Resolution Professional is hereby authorized to file the necessary memo/application with the adjudicating authority for the approval of the Liquidation of the Corporate Debtor”.

The present Resolution Professional of the Corporate Debtor has given his written consent to act as Liquidator of the Corporate Debtor. The said Written Consent is attached to the present Interlocutory Application as Annexure 8 at page No. 38-39. Hence this Application.

Having considered the submissions of the Application and on perusal of the averments made in the present Interlocutory Application, this Bench is satisfied and accordingly is of the considered view that the present Interlocutory



Application is in consonance with Section 33 (2) of the Insolvency and Bankruptcy Code, 2016 and the same is liable to be allowed. Accordingly, the Liquidation is ordered.

- a) The Corporate Debtor (i.e. Pawar Electro Systems Pvt. Ltd.) shall be liquidated in the manner as laid down in Chapter-III of the Code.
- b) Mr. Girish Siriram Juneja, an Insolvency Professional (IBBI Registration No. IBBI/IPA-001/IP-P00999/2017-18/11646, is appointed as the Liquidator of the Corporate Debtor.
- c) He shall issue public announcement stating that Corporate Debtor is in liquidation.
- d) The Moratorium declared under Section 14 of the IBC 2016 shall cease to operate here from.
- e) Subject to section 52 of the IBC 2016 no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- f) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.



- g) The liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.
- h) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- i) The fees payable to the Liquidator shall be in accordance with Regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- j) The Liquidator shall submit progress reports as per Regulation 15 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- k) The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.
- l) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- m) Copy of the Order shall be furnished to the Insolvency and Bankruptcy Board of India, to the Regional Director (Western Region), Ministry of Corporate Affairs; Registrar of Companies &



Official Liquidator, Maharashtra, the Registered Office of the Corporate Debtor; and the Liquidator.

- n) With the aforesaid observations the Interlocutory Application bearing IA No. 1946 of 2021, stands disposed of as Allowed. Order Accordingly.

IA 2402/2020 IA 300/2021

List these Interlocutory Applications on Board on 02.05.2023, for further consideration and hearing.

Sd/-

**ANU JAGMOHAN SINGH
MEMBER (TECHNICAL)**

Vedant Kedare

Sd/-

**H. V. SUBBA RAO
MEMBER (JUDICIAL)**