

NATIONAL COMPANY LAW TRIBUNAL

COURT ROOM NO. 1,
MUMBAI BENCH

Item No. 41

IA 3807/2023

In

C.P. (IB)/4668(MB)2018

CORAM:

SH. PRABHAT KUMAR JUSTICE VIRENDRASINGH BISHT (Retd.)
HON'BLE MEMBER (TECHNICAL) HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON **23.11.2023**

NAME OF THE PARTIES: GUPTA COAL INDIA PVT LTD

V/s

NYLES SALES & INFRAPROJECTS
PVT.LTD

Section 60(5) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

1. Mr. Deepak Saxena, Ld. Counsel for the Applicant present.
2. The application I.A. No. 3807/2023 is filed by Mr. Sandeep Bishan Swaroop Goel, seeking liquidation of Nyles Sales & Infraprojects Private Limited (hereinafter referred to as the “Corporate Debtor”) under Section 33 (1) of the Insolvency and Code, 2016 (hereinafter called as “the Code”).
3. The brief facts of the application are as follows:
 - i. The Applicant mentions that this Tribunal vide its order dated 02.12.2022 in Company Petition No. 4668/IBC/MB/2018 admitted the petition under Section 9 of the Code, filed by Gupta Coal India Private Limited (hereinafter referred to as

the “Operational Creditor”) and Corporate Insolvency Resolution Process (hereinafter referred to as the “CIRP”) was initiated against the Corporate Debtor. Mr. Sandeep Bishan Swaroop Goel, was appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal, later confirmed as RP by the CoC in its meeting held on 08.03.2023.

- ii. The Applicant submits that in the 4th CoC meeting held on 20.04.2023, CoC had informed the RP that there was no meaning in carrying out the valuation of the assets as the assets were hardly of any value and requested the RP to consider the value of the same as NIL. Considering the facts that all the work contracts had been abandoned as informed by the suspended Director Mr. Ramji Singh, the CD having no assets, and the records not traceable, the CoC decided not to publish Form-G and decided to rather file for liquidation of Corporate Debtor.
- iii. In view the above, the CoC in its 4th Meeting held on 20.04.2023 with 100% voting decided and authorized the RP to file liquidation application under Section 33 of the Code. The Resolution passed in the meeting is reproduced hereinunder: -

“RESOLVE THAT, the Corporate Debtor be taken to liquidation as Corporate Debtor is not operational and moreover there are no assets, and further RESOLVED THAT, the RP shall act as liquidator as per IBC 2016 at its regulations”.

4. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, this bench is of the opinion that the Corporate Debtor is required to be liquidated in the manner as laid down in the IBC 2016.

ORDER

2. The above I.A. No. 3807/2023 is allowed and the Corporate Debtor “**Nyles Sales and Infraprojects Private Limited**” is ordered to be liquidated as a going concern for the first attempt and if it fails, then sale by other methods should be tried.
 - a. This Bench appoints Mr Sandeep Bishan Swaroop Goel, having Registration No. IBBI/IPA-001/IP-P01363/2018-2019/12172, email-goelsandeep60@yahoo.com is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
 - b. That 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 or decided in the meeting held on 20.04.2023.
 - c. 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.
 - d. The Liquidator appointed under section 34(1) of the Code. All powers of the board of directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the liquidator.
 - e. That 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.

- f. That 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.
 - g. That 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 proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.
 - h. 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.
 - i. The liquidator shall be at liberty to pursue pending the Interlocutory Application pertaining to avoidance transactions, if any.
4. With the above directions, the I.A. No.3807/2023 filed u/s 33 (1) by the applicant is hereby allowed and disposed of.

Sd/-

**PRABHAT KUMAR
MEMBER (TECHNICAL)**

Sd/-

**JUSTICE VIRENDRASINGH BISHT
MEMBER (JUDICIAL)**

/NP/