IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 06
(IB)-637(PB)/2018

IN THE MATTER OF:

Punjab National Bank .... Applicant/petitioner

Vs.

Ms. General Power Company Pvt. Ltd. .... Respondent

Order under Section 7 of Insolvency & Bankruptcy Code, 2016

Order delivered on 22.07.2020

CORAM:
SH. B.S.V. PRAKASH KUMAR
HON'BLE ACTG. PRESIDENT

SH. HEMANT KUMAR SARANGI
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant	Mr. Manas Shukla, Adv. with Mr. Subraveti Krishna, RP Mr. Apoorv Sarvaria, Adv. for PNB
For the respondent	Mr. Amit Goel, Adv.

ORDER

CA-69(PB)/2020:

It is an application filed by RP under Section 33(2) of the Code based on the resolution dated 17.12.2019 by the CoC for liquidation of the Corporate Debtor.

On perusal of this application, it appears that this company petition was admitted on 02.07.2019 by appointing an IRP Mr. Subraveti Krishna. In pursuance thereof, the IRP issued public announcement inviting claims from the creditors on 06.07.2019.

soon after receipt of claims, the IRP collated the claims and constituted the CoC. In compliance of it, the CoC in its first meeting held on 24.07.2019 appointed IRP as RP to discharge the functions of CIRP. Subsequent thereto, the RP appointed two valuers for assessing the liquidation value of the Corporate Debtor. On receipt of such value from two valuers, the RP has determined the liquidation value as around 6 crores.

The CoC in its 2nd meeting held on 03.09.2019 has issued Form- G (Invitation for Expression of Interest) inviting resolution plan from the resolution applicant. When nobody come forward, the CoC again issued Form-G, somehow only one resolution applicant come forward, having one resolution applicant come forward expressing interest, the RP has issued information memorandum and request for resolution plan (RFRP) to the prospective resolution applicant but whereas the applicant did not respond after issuance of information memorandum and request for resolution plan. Then, in the fifth meeting of CoC, it was decided to file an application for liquidation of the Corporate Debtor.

In furtherance of the same, in the 6th meeting of the CoC held on 17.12.2019, the sole financial creditor of the CoC resolved to propose the liquidation of the corporate debtor by filing an application before this Bench.

Since the RP consent is required to continue as liquidator, the present RP has even submitted his consent as well as authorization for assessment to work as liquidator but whereas this RP has subsequently undergone surgery and is not in a position to take up the assessment of the liquidator, he has, sought for withdrawal of the consent to continue as the liquidator by filing an application (IA-2307/2020) for withdrawal of his consent and authorization of assessment. Subsequently, the CoC has proposed a new Insolvency Professional namely Mr. K. Subhra Narayan Mohapatra, registration No. IBBI/IPA-002/IP-N00618/2018-2019/11981, email id- ksnm72@hotmail.com to act as liquidator of the Corporate Debtor.

In the backdrop of these facts, it appears that since the CoC does not have any prospective resolution applicant come forward to file resolution plan, the CoC has passed resolution proposing the liquidation of the Corporate Debtor, therefore, we hereby allow this application by appointing Mr. K. Subhra Narayan Mohapatra as liquidator with directions as follows:-

a) This Bench hereby orders the Corporate Debtor to be liquidated in the manner as laid down in the chapter by issuing a public notice stating that the Corporate Debtor is in liquidation with a direction to the liquidator to send this order to ROC with which this company has been registered.

b) The Insolvency Professional viz. Mr. K. Subhra Narayan Mohapatra is hereby appointed to act as Liquidator for the purpose of liquidation of the corporate debtor, therefore, all powers of the board of directors, Key managerial personnel and partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be hereby vested in the liquidator. The Personnel of the Corporate Debtor are directed to extend all co-operations to the liquidation as may be required in managing the affairs of the Corporate Debtor. The Insolvency Professional appointed as liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified under regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.

c) Since this liquidation order has been passed, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor without prior approval of this Adjudicating Authority save and except as mentioned in sub-section 6 of Section 33 of the Code.

d) This liquidation order shall be 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 is continued during the liquidation process by the Liquidator.

e) The liquidator is directed to carry the functions of the Liquidator as envisaged under the Insolvency and Bankruptcy Code, 2016 and also Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

The Registry is hereby directed to immediately communicate this order to the Liquidator, the Corporate Debtor and the IBBI & concern ROC by way of E-Mail.

Sd/-

(B.S.V PRAKASH KUMAR)
ACTG. PRESIDENT

Sd/-

(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)

22.07.2020
Aarti Makker