

**IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH, NEW DELHI**

**C.A. 957 (PB) /2019
IN
Company Petition No. (IB)- 589(PB)/2018**

**IN THE MATTER OF:
TARUN JAIN**

.... APPLICANT/RP

AND

IN THE MATTER OF:

M/s MACRO LEAFIN PRIVATE LIMITED

..... FINANCIAL CREDITOR

Versus

M/s PRADEEP DOWNHOLE EQUIPMENTS PRIVATE LIMITED

..... CORPORATE DEBTOR

*Under Section 33(2) of the Insolvency and Bankruptcy Code, 2016
for liquidation of the corporate debtor*

Coram:

**DR. DEEPTI MUKESH
HON'BLE MEMBER (JUDICIAL)**

**SH. S. K. MOHAPATRA
HON'BLE MEMBER (TECHNICAL)**

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No. 1535
Date of Presentation 24/9/19
of application for Copy 11
Registration Fee 5/-
Total 55/-
Date of Receipt 27/09/19
Date of Payment 01/10/19

DR. DEEPTI MUKESH
National Company Law Tribunal
New Delhi

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Presents:

For the petitioner

- Mr. Akshay Abrol, Adv.

For RP

- Mr. Vineet Tayal, Adv.

Ms. Niti A. Sachar, Adv.

For the Respondent

- Mr. Shivam Jangra, Proxy Counsel

MEMO OF PARTIES

M/s Macro Leafin Private Limited

Having registered office at:

39/1, Sir Hariramgoenka Street,

1st Floor, Basnstalla

Kolkata- 700007

...Applicant / Financial Creditor

VERSUS

M/s Pradeep Downhole Equipments Private Limited

Having its registered office at:

F-102, 1st Floor,

MCD No. 779/VI, Ragunath Complex,

Main Bazar, Mehrauli,

New Delhi -110030

...Respondent/ Corporate Debtor

Judgment delivered on: 20.09.2019

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JUDGMENT

DR. DEEPTI MUKESH, Member (J)

1. This is an application filed by the Resolution Professional under Section 33 (2) of Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for passing an order for liquidation of the corporate debtor, M/s Pradeep Downhole Equipments Private Limited.
2. Facts in brief are that the Financial Creditor, M/s Macro Leafin Private Limited had filed an application bearing no. IB 589(PB)/2018 under Section 7 of the Code for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor, M/s Pradeep Downhole Equipments Private Limited. The said application was admitted by this tribunal vide order dated 25.10.2018 and Mr. Tarun Jain was appointed as Interim Resolution Professional (IRP).
3. In terms of Regulation 6 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the said Interim Resolution Professional made a public announcement in FORM-A on 29.10.2018 in English Daily Financial Express



and Hindi Daily Jansatta. The Public announcement was also uploaded on the website of Insolvency and Bankruptcy Board of India (IBBI).

4. The Interim Resolution Professional constituted a Committee of Creditors which comprised of sole financial creditor, the applicant herein. In its first meeting held on 26.11.2018, Committee of Creditors appointed the IRP to act as Resolution Professional (RP).
5. The relevant portion of minutes of 3rd meeting of CoC dated 21.01.2019 has been reproduced below for ready reference:

"ITEM NO. 7

Discuss and Approve further Course of Operation

The RP apprised the COC members that the Corporate debtor is not having any business operations since 2013. There are no further assets remain for realisation in the company and corporate debtor has no potential assets including intangible assets against

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which resolution process is to be carried out. The Corporate debtor does not have any business plans and team to carry on the business in future and there are no future earnings prospects to revive the operations of the company except some bank balance which will be adjusted in CIRP and Liquidation Expenses. Also, as on date known liability only pertains to the members of CoC. There is no claim received from any creditor against the Corporate debtor.

Therefore, the COC deliberated that the liquidation is only remedy in this case now.

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MATTERS TO BE VOTED UPON

RP proposed the following item for voting to the COC members: -

1. To approve filing application for liquidation with Hon'ble Adjudicating Authority i.e. NCLT, Principal Bench

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The matter was discussed in detail and after discussion the following resolution was passed unanimously:

'RESOLVED THAT an application for liquidation be filed with Hon'ble Adjudicating Authority, i.e. National Company Law Tribunal, Principal Bench, New Delhi.'

6. The Resolution Professional discloses that no further assets remain for realisation in the company and corporate debtor has no potential assets including intangible assets against which resolution process is to be carried out, hence neither valuation of the assets can be done nor expression of interest can be floated/ invited. There is practical impossibility to continue the resolution process against corporate debtor. The CoC in its third meeting dated 21.01.2019 after elaborate discussions and deliberations, passed the following resolution with 100% vote share:

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- a) That the liquidation of the Corporate Debtor, is recommended;



- b) That the RP is requested to file application before the Adjudicating Authority under Section 33 of the Code;
- c) That the Mr. Tarun Jain, the RP be recommended to be appointed as liquidator;
- d) That the liquidator be paid professional fee as per provisions of Regulation 4 of the IBBI Liquidation Process Regulations;
- e) that fees payable to the liquidator for the conduct of the liquidation proceedings shall be Rs.1,00,000/- (Rupees One Lakh only) excluding reimbursement of out of pocket expenses and goods and service tax (GST).

7. The Resolution Professional (RP) submitted the present application no. CA- 957(PB)/2019 highlighting that the company had achieved turnover of Rs.8,50,000/- during the financial year 2013-14. Thereafter, the company has



not carried on any business. As per the last audited financials of the company for the year ending on 31.03.2018 and as per the provisional balance sheet on the insolvency commencement date, the company has cash and bank balance of Rs. 18,296/- and long-term loan and advances of Rs.99,50,000/- out of which only a sum of Rs. 3,35,255/- had been recovered. The balance is non-recoverable as the company from whom recovery ~~is~~ to be made has gone under liquidation and has no assets to pay its liabilities.

8. The voting sheet of the 3rd meeting of CoC held on 21.01.2019 is on record. The consent of liquidator in Form AA is also on record.

9. In the aforesaid factual background and in the absence of any resolution plan; there is no other alternative but to seek for liquidation of the corporate debtor under Section 33 of the Code.



10. As a sequel to above, the application is allowed, ordering liquidation of the corporate debtor, M/s Pradeep Downhole Equipments Private Limited in the manner laid down in the Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 along with following directions:

- a. Mr. Tarun Jain resolution professional holding registration no. IBBI/IPA-002/IP-N00187/2017-18/10504, is appointed as Liquidator in terms of Section 34(1) of the Code;
- b. Mr. Tarun Jain is directed to issue Public Announcement stating that the corporate debtor is in liquidation in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;
- c. The Registry is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;
- d. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy

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Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;

e. This order shall be deemed to be a notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;

f. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant rules and regulations.

g. He shall follow up and continue to investigate the financial affairs of the Corporate Debtor to determine the undervalued and preferential transactions etc.

h. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation


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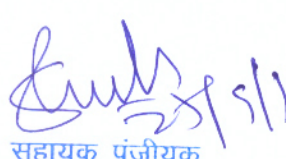
commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.

- i. Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator for taking necessary steps.
- j. C.A. 957(PB) /2019 filed in IB 589(PB)/ 2018 is disposed of in the aforesaid terms.
- k. The office is directed to communicate a copy of the order to the Financial Creditor, the Corporate Debtor and the Liquidator at the earliest but not later than seven days from today. A copy of this order be also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.


(S.K. MOHAPATRA)
MEMBER (TECHNICAL)


(DR. DEEPTI MUKESH)
MEMBER (JUDICIAL)

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सहायक पंजीयक
ASSISTANT REGISTRAR
राष्ट्रीय कम्पनी विधि अधिकरण
NATIONAL COMPANY LAW TRIBUNAL
C.G.O. COMPLEX, NEW DELHI-110003

