

IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH, KOLKATA

IA (IB) No. 1036/KB/2020

In

CP (IB) No. 230/KB/2019

Under section 33 of Insolvency & Bankruptcy Code, 2016

*In the matter of*

State Bank of India ... Financial Creditor

Versus

Rhytem Overseas Trade Limited ... Corporate Debtor

Yogesh Gupta

RP of Rhytem Overseas Trade Limited ... Applicant

Order reserved on: 22.12.2020

Order pronounced on: 06.01.2021

*Coram:*

Shri Rajasekhar V.K. : Member (Judicial)

Shri Harish Chander Suri : Member (Technical)

*Appearances (through video conferencing):*

For the Applicant : Mr Ranjan Mukherjee, Advocate

Mr. Debdeep Sinha, Advocate

Mr Yogesh Gupta, RP in person.

**ORDER**

*Per: Rajasekhar V.K., Member (Judicial)*

1. This court convened *via* video conference today.
2. This is an application filed by the Resolution professional upon the instructions of the Committee of Creditors (CoC) seeking liquidation of the Corporate Debtor, *viz.*, Rhytem Overseas Trade Limited [CIN: U51109WB1981PLC034241], on the ground that no Expression of Interest (EoI) has been received.
3. This Adjudicating Authority *vide* its order dated 07.11.2019 on a Petition filed by State Bank of India (financial creditor) under section 7 of the Insolvency and Bankruptcy Code, 2016 (the Code) directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor and appointed the Applicant herein as the Interim Resolution Professional (IRP).
4. The Applicant submits that in terms of section 15 of the Code, public announcement was made on 15.11.2019, in *Business Standard* (English) and *Aajkal* (Bengali) newspapers, fixing 21.11.2019 as the last date for submitting the claim.
5. The Committee of Creditors (CoC) was duly constituted and the Report certifying the constitution of the CoC was filed with the Adjudicating Authority on 02.12.2019.
6. The first meeting of the CoC was held on 09.12.2019, wherein the Applicant herein was confirmed as the RP of the Corporate Debtor.
7. Invitation of Expression of Interest (EoI) was published on 25.01.2020 in *Financial Express* (English) and on 26.01.2020 in *Aajkal* (Bengali) and 10.02.2020 was fixed as the last date for receiving the EoI. However, no EoI was received. The IRP intimated the CoC member about the same and requested that the Form G be published once again but the same was not approved by the CoC.
8. In its 6<sup>th</sup> CoC meeting held on 22.07.2020, the CoC by 100% vote passed a resolution for recommendation of liquidation for the Corporate Debtor.
9. We have considered the submission made by the Applicant/RP in person and perused the record.
10. Section 33(2) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Debtor where the resolution

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professional, at any time during the CIRP but before confirmation of the resolution plan, intimates the Adjudicating authority of the decision of the CoC approved by not less than sixty-six percent of the voting share, to liquidate the Corporate Debtor. In the present case, the CoC has resolved by 100% voting share to liquidate the Corporate Debtor.

11. This Bench, therefore, hereby orders as follows: -

- a. IA (IB) No. 1036/KB/2020 filed by Mr Yogesh Gupta, RP of Rhytem Overseas Trade Limited, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;
- b. Mr. Abhijeet Jain, Reg. No. IBBI/IPA-002/IP-N00173/2017-2018/10445, email [ajasso@rediffmail.com](mailto:ajasso@rediffmail.com) is hereby appointed as Liquidator as provided under section 34(1) of the Code, subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019.
- c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, *i.e.*, *Business Standard* (English) and *Aajkal* (Bengali) stating that the Corporate Debtor is in liquidation.
- e. All the powers of the Board of Directors, and of key managerial persons, shall cease in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
- f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- g. On initiation of the liquidation process but subject to section 52 of the

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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, as provided in section 33(5) of the Code read with its proviso.

- h. In accordance with section 33(7) of the Code, this liquidation order 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. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, Kolkata, within whose jurisdiction the Corporate Debtor is been registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.
12. The application bearing **IA (IB) No. 1036/KB/2020** shall stand disposed of in accordance with the above directions.
  13. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
  14. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities

Harish ChanderSuri  
Member (Technical)

Rajasekhar V.K.  
Member (Judicial)  
06.01.2021

*SR (LRA)*