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IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

Coram : Shri Madan B. Gosavi,
Hon'ble Member (J)
&
Shri Virendra Kumar Gupta
Hon'ble Member (T)

CP (IB) No.1250/KB/2018

In the matter of:

An application for initiation of Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

-And-

In the matter of:

Yusen Logistics (India) Private Ltd., 511-513, 5th floor Palm Court, Sukhrali Chowk, Gurgaon- 122 001;

...Applicant/Operational Creditor

-Versus-

In the matter of:

Diamond Shipping Company Ltd., having its registered office at 33A, J. L. Nehru Road, Kolkata- 700 027;

....Corporate Debtor

Counsel appeared:

1. Ms. Sonu Jain] Resolution Professional

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Date of Pronouncement of Order: 16.09.2019

ORDER

Yusen Logistics (India) Pvt. Ltd. - the Operational Creditor filed this application under section 9 of the Insolvency & Bankruptcy Code, 2016 (in short, I&B Code) against **Diamond Shipping Company Limited** - Corporate Debtor to start Corporate Insolvency Resolution Process (in short, "CIRP") of the Corporate Debtor, as the Corporate Debtor allegedly committed default in paying the operational debt of Rs.8,82,99,152/-.

2. This authority vide order dated 14.03.2019 admitted the corporate debtor in CIRP. CA Sonu Jain, having registration no.IBBI/IPA-001/IP-P00575/2017-2018/11016 was appointed as the IRP. IRP proceeded with the CIRP. She made public announcement of CIRP of the corporate debtor and called for the claim from the creditors of the corporate debtor. She verified the claims and formed the CoC. Her appointment as the IRP was later on confirmed.

3. During CIRP, RP had received no resolution application. Last date of submission of receipt of expression of interest was 8th September, 2019. No prospective resolution applicant had approached RP showing his expression towards submission of resolution. RP had also issued Form G dated 24th August, 2019 as it is a mandatory requirement of IBC, 2016. RP then prepared and furnished information memorandum to CoC as provided under Regulation 36(1) of CIRP Regulations, 2016. CIRP period completed 180 days on 09.09.2019. RP filed report pointing out that CoC in its last meeting passed resolution requesting this authority to pass order of liquidation of the corporate debtor.

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4. It is seen from the record that RP and CoC did not receive any resolution. CIRP period of 180 days is completed. In such situation, we have no other option but to pass order of liquidation of the corporate debtor.

5. This Tribunal vide order dated 16th September, 2019 in this proceeding passed an order of liquidation of the corporate debtor under section 33 of IBC and it was mentioned therein that detailed order to follow. Accordingly, we pass an order under section 33 of the I&B Code, 2016 to start process of liquidation of the Corporate Debtor as follows:

ORDER

By this order, Corporate Debtor- Diamond Shipping Company Limited is liquidated.

2. CA Sonu Jain, RP having registration no. IBBI/IPA-001/IP-P00575/2017-2018/11016 email id. casonujain@gmail.com is appointed as the Liquidator.

3. Mrs. Jain is directed to issue Public Announcement stating that the corporate debtor is in liquidation, in terms of Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016.

4. The Registry is directed to communicate this order to the Registrar of Companies, West Bengal and to the Insolvency and Bankruptcy Board of India (IBBI), New Delhi.

5. The Order of Moratorium passed under Section 14 of the I&B Code, 2016 shall cease to have effects and a fresh moratorium under Section 33 (5) shall commence.

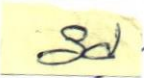
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6. This order is deemed to be a notice of discharge to the officers, employees and the workmen of the Corporate Debtor as per Section 33 (7) of I&B Code, 2016.
7. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of the Insolvency and Bankruptcy Code, 2016.
8. Upon proceeding with the liquidation the Liquidator shall file a **preliminary report** as per regulation 5 read with Reg.13 of the IBBI (Liquidation) Regulations, 2016 at the registry within 75 days from the liquidation commencement date and continue to file **progress reports** as per Reg.15(1) within 15 days after the end of the quarter in which he is appointed.
9. The fee payable to the Liquidator shall form part of the liquidation cost as provided under Reg. 4(1) of the IBBI (Liquidation Process) Regulations, 2016.
10. Registry is hereby directed to communicate the order to the RP, Financial Creditor, Corporate Debtor and the Liquidator by Speed Post and also by email for information and for taking necessary steps.
11. CP(IB) No.1250/KB/2018 stands disposed off.

Let the certified copy of the order be issued upon compliance with requisite formalities.

List the matter on **02.12.2019** for filing of the progress report.


(Virendra Kumar Gupta)
Member(T)


(Madan B. Gosavi)
Member (J)

Signed on this, the 16th day of September, 2019.