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**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, Delhi-III**

CA/139/C-III/ND/2019 in
CP/IB/614/ND/2017 filed under
Section 33(1) AND 34(3) of the
Insolvency and Bankruptcy Code, 2016

In the matter of Wig Brothers Construction Private Limited

Mr. Aditya Agarwal,
Resolution Professional for Wig Brothers Pvt. Ltd. (Applicant)

Order delivered on 27 of November, 2019

CORAM :

**SHRI. CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)
SHRI. K.K.VOHRA, MEMBER (TECHNICAL)**

For Resolution Professional : Mr. Prashant Kumar, Mr. Joseph Pookkatt
Manjula Srinivasan, Mr. Dhawesh Pahuja (Advocates)

ORDER

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. This relates to CA-139/C-III/ND/2019 filed in IB/614/ND/2017 by Mr. Aditya Agarwal (hereinafter referred to as 'Resolution Professional') under Section 33(1) & 34(3) of the Insolvency and Bankruptcy Code (IBC), 2016. The prayer made in the Application is to pass an order of

liquidation pertaining the Corporate Debtor (CD) viz., M/s. Wig Brothers Construction Private Limited.

2. Originally IB/614/ND/2017 filed under Section 9 of the I&B Code, 2016 by the Operational Creditor (OC) was admitted by this Authority vide Order dated 09.07.2018, the CIR Process was initiated against the CD and Mr. Aditya Agarwal was appointed as Interim Resolution Professional (IRP).

3. It is averred that pursuant to the Order of this Authority dated 09.07.2018 the IRP had taken over the management of the CD and had issued the Newspaper Publication in two edition one in English and another in vernacular as per Regulation 6 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016, inviting the claims from the creditors. After verification of the claims received, the IRP constituted the Committee of Creditors (CoC). In the 1st CoC Meeting held on 17.08.2018, the Applicant viz.,

Mr. Aditya Agarwal was appointed as Resolution Professional.

4. In the 2nd COC meeting held on 25.10.2018, only one COC member, Financial Creditor i.e. State Bank of India attended. The agenda was to discuss the current situation of the company and it was informed by the suspended board of directors that the registered office of the company is closed and the audit reports of Financial years 2016-17 and 2017-18 will be completed on 30.10.2018 and 30.11.2018 respectively. It was informed that the RP is not able to verify the claims of other creditors in absence of the relevant information and necessary documents.

5. The applicant in compliance with the order of this Tribunal dated 15.01.2019 conducted COC meeting on 23.1.2019 which was attended by the COC members and Mr. Sunil Mohan for the ex-management. The ex-management also assured that complete accounts compiled

and audited for Financial year 2017-18 and for the period 01.4.2018- 09.07.2018 will be supplied by 30.1.2019.

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6. ^{The} COC conducted fourth ~~COC~~ meeting on 13.2.2019 which *M* was attended by only one COC member, the FC i.e. State Bank of India. The agenda was to discuss the financials of the CD and the COC was informed by the applicant that the financials have still not been updated for necessary action. The COC members were also informed about the financial status of the CD till the last updated financial, which shows *M* that the CD has incurred a loss of Rs 12,93,12,839/- and accumulated loss Rs 23,65,41,274/- resulting in negative net worth of the CD to the tune of Rs 17,21,34,294/-. In view of the financials and loss of the CD, the COC recommended liquidation of the CD. Thus ^{The} COC in its fourth meeting held on 13.02.2019 has decided that CD may be liquidated in light of the fact that the CD's net worth is in negative and there is no scope of revival of the CD.

7. The resolution Professional has submitted that the COC has also not made any payments i.e. cost of advertisement,

μ ^{*and*} lawyer's fee, his remuneration amounting to Rs 1,25,000/-, plus GST per month, which is pending since the COC had approved appointment of IRP as Resolution Professional. The total amount pending for the services rendered by the IRP is amounting to Rs 10,57,072.00/-. The COC shall pay the outstanding as claimed by the RP within two weeks from the date the copy of this order is received.

8. Since no Resolution Plan is received by this Authority under Sub-section (6) of Section 30 of the I&B Code, 2016, before the expiry of the maximum period of the Corporate Insolvency Resolution Process, the CD has to be ordered for Liquidation.

ORDER

9. In view of the facts and circumstances recorded by Resolution Professional in CA/139/C-III/ND/2019 filed in CP/IB/614/ND/2017 and in exercise of powers conferred under Sub-Clauses (i) (ii) and (iii) of Clause (a) of Sub-

Section (1) of Section 33 of the I&B Code, 2016, this Authority proceeds to pass Liquidation Order as follows:-

- I. This Authority hereby orders for liquidation of the Corporate Debtor viz., M/s. WIG Brothers Construction Private Limited which shall be conducted in the manner as laid down in Chapter III of part II of the I&B Code, 2016;
- II. This Authority hereby appoints Mr. Aditya Agarwal as Company Liquidator who shall issue a public announcement stating therein that the Corporate Debtor is in liquidation;
- III. The moratorium declared under Section 14 of the I&B Code, 2016, shall cease to have effect from the date of the order of liquidation;
- IV. Subject to Section 52 of the I&B Code, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a

suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.

- V. This Authority makes it clear that Para (IV) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.
- VI. This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- VII. All the 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

Company Liquidator viz., Mr. Aditya Agarwal In addition to this, the Company Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the I&B Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

VIII. The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.

IX. The Company Liquidator shall be entitled to charge such fees for the conduct of the liquidation proceedings and in such a proportion to the value of the liquidation estate assets as specified under Regulation 4 (2) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

X. The Registry is directed to communicate this order with immediate effect to the concerned Registrar of Companies, RD, OL, Registered Office of the Corporate Debtor and Company Liquidator viz. Mr. Aditya Agarwal, for information and compliance.

10. In terms of the above, CA/139/C-III/ND/2019 filed in CP/IB/614/ND/2017 by the Resolution Professional under Section 33(2) of the I&B Code, 2016, for initiation of the Liquidation Proceedings against the Corporate Debtor viz., M/s. WIG Brothers Construction Private Limited is **allowed**.

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(K.K.VOHRA)
MEMBER (TECHNICAL)

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(CH. MOHD SHARIEF TARIQ)
MEMBER (JUDICIAL)