

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

KOLKATA

C.P. (IB) No. 698/KB/2018

C.A. (IB) No. 952/KB/2019

In the matter of:

An Application under Section 33 of the Insolvency and Bankruptcy Code, 2016 read with applicable provisions of the Insolvency and Bankruptcy Board of India (Insolvency Resolution for Corporate Persons) Regulations, 2016.

And

In the matter of:

State Bank of India, having its Head office at State Bank Bhavan, Corporate Centre, Madam Cama Road, Mumbai-400021 through Stress Assets Management Branch (SAML-I) at Nagaland House, 8th Floor, 11 & 13, Shakespeare Sarani, Kolkata -700071.

-Applicant/Financial Creditor

Versus

TAPL International Pvt. Ltd., having its registered office at Room No. 212, 2nd Floor, Martin Burn House, 1, R.N. Mukherjee Road, Kolkata-700001 and Corporate Office at 11/1A/3, East Topsia Road, Pin-711202 within the aforesaid jurisdiction.

-Corporate Debtor

**CORAM: 1. Shri M.B. Gosavi, Member (Judicial)
2. Shri V.K. Gupta, Member (Technical)**

Counsels on Record:

For the Resolution Professional

1. Mr. Sanjai Kumar Gupta, Resolution Professional
2. Mr. Rahul Auddy, Advocate for RP

Date of pronouncement of Order: 7th August, 2019.

ORDER

Per Shri M.B. Gosavi, Member(J)

1. This is an application filed under Section 7 of Insolvency and Bankruptcy Code, 2016 by State Bank of India (Financial Creditor) against M/s TAPL International Pvt. Ltd. (Corporate Debtor) to start Corporate Insolvency Resolution Process (in short "CIRP") of the Corporate Debtor as the Corporate Debtor committed default in paying financial debt of Rs. 58,44,10,445/- (Rupees Fifty Eight Crore Forty Four Lakh Ten Thousand Four Hundred and Forty Five Only).
2. Vide order dated 01.02.2019, this Adjudicating Authority admitted the Corporate Debtor in CIRP. One Mr. Sanjai Kumar Gupta having registration no. IBBI/IPA-001/IP-P00592/2017-18/11045 was appointed as Interim Resolution Professional (in short "IRP"). The IRP made public announcement of CIRP of the Corporate Debtor by notice publication dated 05.02.2019 in "Financial Express" (English daily) and "Aajkaal" (Bengali Daily). He called upon creditors of the Corporate Debtor to submit their claims with proof.
3. It appears from record that IRP did not receive claim from any other creditor other than the State Bank of India. He verified the claim of SBI and constituted Committee of Creditors (in short "CoC") consist of one member i.e. SBI. IRP visited registered office of the Corporate

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Debtor at Room No. 212, 2nd Floor, Martin Burn House, 1, R.N. Mukherjee Road, Kolkata-700001. He did not find any director, staff or any record of the Corporate Debtor at that address. He then visited the corporate office of the Corporate Debtor at 11/1A/3, East, Topsia Road, Pin-711202 but he did not get any record of the Corporate Debtor and information where about of the directors of the Corporate Debtor are not known to anyone. It appears that appointment of IRP was confirmed as the Resolution Professional (in short "RP"). He contacted one Mr. Anjay Ray- one of the directors of the Corporate Debtor on telephone but that director of the Corporate Debtor did not cooperate the RP in the process. The RP filed an application bearing no. CA(IB)No.426/KB/2019 before this Adjudicating Authority under Section 19(2) of Insolvency and Bankruptcy Code, 2016 alleging non-cooperation by the directors of the Corporate Debtor. This Authority vide order dated 15th May, 2019 allowed the RP to seek police aid from local police to get the second but the RP's efforts to locate assets of the Corporate Debtor turn futile.

4. For want of requisite information about the assets and liabilities of the Corporate Debtor, the RP cannot prepare Information Memorandum. The CoC obviously did not instruct the RP to publish notice calling Expression of Interest (EOI)/resolution plan from prospective resolution applicants for want of requisite information.
5. In the last meeting held on 19.07.2019, CoC by 100% voting resolve that Corporate Debtor should be liquidated and accordingly CoC requested this Authority to pass an order of liquidation.
6. We heard Ld. RP, Mr. Sanjai Kr. Gupta and Ld. Counsel Mr. Rahul Auddy for the RP. We perused the record.
7. Since the Corporate Debtor does not have any assets and the CoC did not receive any resolution plan, this Adjudicating Authority left

with no option but to pass an order of liquidation of the Corporate Debtor as contemplated under Section 33 of Insolvency and Bankruptcy Code, 2016.

8. Before passing final order in the matter, we placed on record our anguish about the facts as to how the then officers of SBI could grant loan to the Corporate Debtor of more than Rs. 58 Crores when the Corporate Debtor did not have any assets. SBI, the sole creditor of the Corporate Debtor is totally silent on the fact as to what was the security they had sought from the Corporate Debtor while considering the loan proposal worth more than Rs. 58 Crores. SBI did not apprise us as to what happen to those assets. In such situation, we request Insolvency and Bankruptcy Board of India (IBBI) to refer the matter to vigilance department of SBI and also to Reserve Bank of India for propoer inquiry. With this, we proceed to pass following order:-

ORDER

(i) Corporate Debtor M/s **TAPL International Pvt. Ltd.** having CIN: U17120WB2011PTC166338, and having its registered office at Room No. 212, 2nd Floor, Martin Burn House, 1, R.N. Mukherjee Road, Kolkata-700001 and Corporate office at 11/1A/3, East, Topsia Road, Pin-711202, in the state of West Bengal is ordered to be liquidated.

(ii) **Mr. Sanjai Kumar Gupta** of (Mobile No. 9874877220) of 153A, A.P.C. Road, Kolkata-700006 having, email id: casanjaigupta@gmail.com and having Registration No. IBBI/IPA-001/IP-P00592/2017-18/11045 is appointed as the liquidator.

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(iii) Liquidator is directed to issue public announcement stating that the Corporate Debtor is in liquidation, in one of the leading English newspaper as well as in one vernacular newspaper having wide circulation where the registered office of the corporate debtor is situated as per Section 33(1) (b) (ii) of the Code read with Reg. 12 (1) of IBBI (Liquidation Process) Regulations, 2016.

(iv) 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.

(v) 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.

(vi) 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.

(vii) Since the CD company is a going concern, the liquidator is at the liberty to sell the CD company as a going concern as per the provisions of the Code and regulation.

(viii) 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.

(ix) 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**

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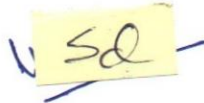
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reports as per Reg.15(1) within 15 days after the end of the quarter in which he is appointed.

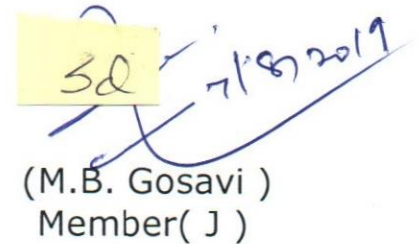
(x) The fee payable to the Liquidator shall form part of the liquidation cost as provided under Reg. 4(1) of the IBBI (Liquidation Process) Regulations, 2016.

(x) The free copy of this order is to be sent to the RP/Liquidator, Financial Creditor and the Corporate Debtor by Speed Post as well as by email for information and for taking necessary steps.

(xi) Urgent photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.



(Virendra Kumar Gupta)
Member(T)



(M.B. Gosavi)
Member(J)

Signed on this, the 7th day of August, 2019.

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