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THE NATIONAL COMPANY LAW TRIBUNAL
COURT NO. IV
AT NEW DELHI

CA No. 311/ND/2019
IN
Company Petition No. (IB)-274(ND)/2018

In the matter of:

M/S Ashutosh Steels Private Limited

Applicant/ Resolution Professional

Versus

M/S Royal Pressing and Components Private Limited

Corporate Debtor

*Under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 for liquidation
of the corporate debtor*

Judgment delivered on:13.02.2020

Coram:

DR. DEEPTI MUKESH
HON'BLE MEMBER (Judicial)
SH. HEMANT KUMAR SARANGI
HON'BLE MEMBER (Technical)

For the Applicant: Mr. Ashwath Sitaraman, Advocate

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18/2/2020

MEMO OF PARTIES**M/S Ashutosh Steels Private Limited****Registered office at Plot No 8 Mujessar Main Road****Sector-24 Faridabad****Haryana-121005**

Applicant/ Resolution Professional

Versus**M/S Royal Pressing and Components Private Limited****Registered office at C-9 C DDA Flats, Munirka****New Delhi-110048**

Corporate Debtor

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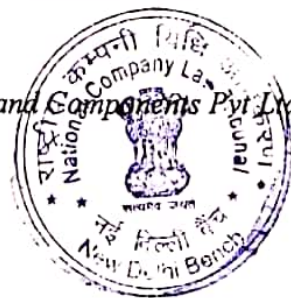
ORDER

Dr. Deepti Mukesh, Hon'ble Member (J)

1. This is an application filed by the Resolution Professional under Section 33 (1) of Insolvency and Bankruptcy Code, 2016 (**hereinafter referred as the "Code"**) for issuance of directions for liquidation of the corporate debtor, M/S Royal Pressing and Components Private Limited.
2. The facts in brief are that the operational creditor, M/S Ashutosh Steels Private Limited had filed an application bearing no. IB 274(ND)/2018 under Section 9 of the Code for initiation of Corporate Insolvency Resolution Process against the corporate debtor. The said application was admitted by this tribunal vide order dated 15.03.2019, appointing Mr. Shashi Sharma as Interim Resolution Professional (IRP) of M/S Royal Pressing and Components Private Limited.
3. Thereafter, in terms of Regulation 6 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) the said Interim Resolution Professional made a public announcement in FORM-A in 'Financial Express' (English Edition) and 'Jansatta' (Hindi

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Edition). The Public announcement was also uploaded in the website of Insolvency and Bankruptcy Board of India (IBBI).

4. In Second meeting held on 25.04.2019, COC accorded approval for appointment of the incumbent Interim Resolution Professional, Mr. Shashi Sharma as Resolution Professional. Consent Form AA has been annexed.
5. In Third meeting of COC, in terms of Regulations 36 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Professionals) Regulations, 2016 an information memorandum was approved unanimously. The RP invited Expression of Interest (EOI) from prospective resolution applicants in compliance of Regulations 36 A of IBBI regulations, 2016 by publishing Form G on 28th May 2019 in English and Hindi Edition of newspaper 'Financial Express' and 'Jansatta'. Copy of public advertisement in Form G is duly annexed with the application.
6. Since no application for Expression of Interest was received, COC in the meeting held on 18.06.2019, decided to extend the date and had re-advertised the invitation in Form-G in newspaper 'Financial Express' in and in 'Jansatta' in English and Hindi Edition on 20.06.2019.

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7. Thereafter, two parties had submitted EOI with the Resolution Professional and subsequently one party withdrew its application. It is submitted that RP after obtaining a declaration of non-disclosure, had issued information memorandum, evaluation matrix and requested for resolution plan (RFRP) with the remaining party. However, despite the issuance of information memorandum, evaluation matrix and RFRP, no resolution plan has been submitted by any party.
8. In eighth meeting held on 31.08.2019, it was decided to liquidate the corporate debtor as no proposal was forthcoming and the sales declined rapidly and the running cost remained high leading to heavy cash crunch. The COC decided to recommend appointment of RP Shri Shashi Sharma as liquidator and decided that the fees to be paid to the liquidator shall be in conformity with Regulations 4(2) of the IBBI (Liquidation Process) Regulations, 2016. Copies of consent of RP to act as liquidator and Board Resolution dated 31.08.2019 passed at the meeting of COC recommending liquidation of the corporate debtor with 90.43% vote share has duly been annexed.
9. That CIRP of 180 days in the present matter expired on 12.09.2019 and due to non-receipt of any Resolution Plan, COC's in its eight meeting

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held on 31.08.2019 decided to choose the option of liquidation which was passed with 90.43% voting share as provided under the provisions of section 33 of IBC, 2016 of which the relevant sub-section 1 of section 33 is reproduced hereunder;

“33. (1) Where the Adjudicating Authority, —

(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or

(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein, it shall—

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation; and

(iii) require such order to be sent to the authority with which the corporate debtor is registered.”



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10. Ld. RP represents that two valuation reports as required under the provisions of IBC, 2016 from the registered valuers in relation to the fair value and liquidation value of the assets of the corporate debtor, are obtained and placed on record. The fair value and liquidation value of the assets as per 15.03.2019 are approximately Rs.4,42,11,195 lacs and Rs.3,09,41,854 lacs respectively.
11. As stated by RP that since COC and RP has made all endeavours to resolve which has failed to bring results and COC in its commercial wisdom decided to liquidate the corporate debtor M/S Royal Pressing and Components Private Limited, which in our opinion is not required to be examined.
12. We hereby order that the corporate debtor M/S Royal Pressing and Components Private Limited stands liquidated and the incidence of liquidation to follow, on and from the date of this order in terms of the provisions of IBC, 2016 and more particularly as given in Chapter – III of IBC, 2016 and also in terms of Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017. Mr. Shashi Sharma, present RP is appointed as liquidator by COC in its 8th meeting dated 31.08.2019 who has consented to act as liquidator. Minutes of COC meeting and

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consent Form AA are annexed with the application. Therefore, we order and give following directions:

- a. Mr. Shashi Sharma Professional holding registration no. IBBI/IPA- 001/ IP-P01261/2018-19/ 12093, is appointed as Liquidator in terms of Section 34(1) of the Code;
- b. Mr. Shashi Sharma 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. In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. Similarly, in relation to other fiscal and regulatory authorities which governs the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.

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- e. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- f. 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 the Insolvency and Bankruptcy Code, 2016;
- g. 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 regulations.
- h. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.



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- i. Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator for taking necessary steps.

C.A. 311(ND)/2019 filed in IB 274(ND)/2018 is disposed of in the aforesaid terms.

SD/-

HEMANT KUMAR SARANGI
MEMBER (T)

SD/-

DR. DEEPTI MUKESH
MEMBER (J)

Pronounced today under Rule 151 of the NCLT Rules 2016 as Hon'ble Member(T), Hemant Kumar Sarangi is not holding court today.



[Signature]
18/02/2020.
COURT OFFICER.

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[Signature]
18/2/2020
सहायक पंजीयक
ASSISTANT REGISTRAR
राष्ट्रीय कंपनी विधि न्यायाधिकरण
NATIONAL COMPANY LAW TRIBUNAL
C.G.O. COMPLEX, NEW DELHI