

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
CUTTACK BENCH  
CUTTACK**

**TP No. 32/CTB/2019  
CP(IB) No. 129/KB/2018**

**CORAM: Shri M. B. Gosavi, Hon'ble Member (J)**

**In the matter of:**

**An application under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.**

**And**

**In the matter of:**

**SREI EQUIPMENT FINANCE LIMITED,** having CIN U70101WB2006PLC109898, a Company incorporated under the Companies Act, 1956 having its Registered office at 'Vishwakarma' 86C, Topsia Road, Kolkata-700 046, and having its Corporate Office at 6A, Kiran Shankar Roy Road, Kolkata-700 001 in the State of West Bengal under the aforesaid jurisdiction;

.....Financial Creditor/Applicant

**Versus**

**In the matter of:**

**MAA DURGA THERMAL POWER COMPANY LIMITED,** having CIN: U40102OR2008PLC010501, a company incorporated under the Companies Act, 1956 having its Registered Office at CADD Centre Building, 2<sup>nd</sup> Floor Press Chhak, Madhupatna, Cuttack- 753 010, in the state of Odisha under the aforesaid jurisdiction;

..... Corporate Debtor/ Respondent

5d

**Counsels on Record:**

1. Mr. Pankaj Dhanuka, Resolution Professional
2. Ms. Suhani Dwivedi, Advocate

**Date of pronouncement of Order: 25.06.2019**

**ORDER**

**Per Madan B. Gosavi, Member (Judicial)**

1. SREI Equipment Finance Limited filed this application under Section 7 IBC, 2016 against M/s Maa Durga Thermal Power Company Limited/ Corporate Debtor to start Corporate Insolvency Resolution Process of the Corporate Debtor. As the Corporate Debtor committed default paying Financial Debt of Rs. 242,92,24,575/- (Two hundred forty-two crore Ninety-two lakh Twenty-four thousand Five hundred seventy-five).
2. Ld. Adjudicating Authority at Kolkata admitted the application and started CIRP of the Corporate Debtor vide Order dated 08.06.2019. One Mr. Rajesh Kumar Agarwal having Registration No. **IBBI/IPA-001/IP-P01023/2017-2018/11722** is appointed as the Interim Resolution

Professional to Company Affairs to the Corporate Debtor. IRP make public announcement of CIRP of the Corporate Debtor and called for claims from the Creditors of the Corporate Debtor. He found the Committee of Creditors consist of six Financial Creditors and allotted them the voting percentage in following manner:

- (i). Oriental Bank of Commerce -11.76%
- (ii). State Bank of India - 19%
- (iii). Assets Reconstruction Company -19.38%
- (iv). Indian Infrastructure Finance Co. Ltd.- 2.57%
- (v). UV Assets Reconstruction Co. Ltd.- 10.02%
- (vi). SREI Equipment Finance Ltd.- 37.27%

3. The first CoC meeting was held on 10.07.2018, the appointment of the IRP was confirmed as the RP in second CoC meeting. CoC directed to RP to proceed with the CIRP as per the rules.
4. The Corporate Debtor was not going concern. The RP appointed M/s SDR & Associate, the auditors to assesses the assets & Liabilities of the Corporate Debtor in Order to prepare Information Memorandum. However, the CoC replaced RP by appointing Mr. Pankaj Dhanuka having Registration No. **IBBI/IPA-001/IP-P-01205/2018-2019/11911** as Resolution Professional. Mr. Dhanuka appointed one M/S RBSA

Valuation Advisors, LLP and LSI Engineering & Consult Private Limited. He also appointed some other agencies for preparation of Information Memorandum. The CIRP periods of 180 days completed on 05.12.2018. However, it was extended by Adjudicating Authority at request of CoC and RP.

5. On 20.09.2018, notice was published in one English and one Oriya daily newspaper calling upon Prospective Resolution Applicants to submit Resolution Plan. The last date of submission of such plan was 24.01.2019. It is seen from the record that CIRP period of 270 days completed on 03.01.2019.

6. However, the RP filed under Section 60(5) of Insolvency and Bankruptcy Code, 2016 for exclusion of period of 64 days from total CIRP period on the ground that the period was spent unnecessarily in replacing the RP, and the reason was beyond control of CoC. Ld. Adjudicating Authority by Order dated 24.07.2018 allowed the application for exclusion of such period.

7. It is further seen from record that inspite of grace period of 64 days, the RP and CoC did not receive Resolution Plan which was worth to be considered . Hence, the CoC in its 11<sup>th</sup> meeting held on 29.04.2019 passed

the resolution requesting of this Adjudicating Authority to pass order of liquidation of the Corporate Debtor.

8. I heard Ld. RP in person and all other Stake holders. It is seen from record and proceeding that inspite of best efforts by CoC and the IRP/ RP, the insolvency of the Corporate Debtor could not be resolved. Since, the CoC did not receive the Resolution Plan which is worth to be accepted, they requested this Adjudicating Authority to pass order of Liquidation. I accept their request of reason stated above and proceed to pass the following order.

### **ORDER**

- (i) Corporate Debtor **M/s MAA DURGA THERMAL POWER COMPANY LIMITED**, having CIN: U40102OR2008PLC010501, a company incorporated the Companies Act, 1956 having its Registered Office at CADD Centre Building, 2<sup>nd</sup> Floor Press Chhak, Madhupatna, Cuttack- 753 010, in the state of Odisha is admitted in process of liquidation.
- (ii) Mr. Pankaj Dhanuka , Resolution Professional having Registration No. **IBBI/IPA-001/IP-P-01205/2018-2019/11911**, FE 328, Sector 3, Salt

Lake City, Kolkata 700 016, West Bengal and email id pankajdhanuka@gmail.com is appointed as the liquidator in CP(IB)No. 129/KB/2018, TP No. 32/CTB/2019.

- (iii) Mr. Pankaj Dhanuka 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 Oriya 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 the order to the Registrar of Companies, Odisha and to the Insolvency and Bankruptcy Board of India (IBBI), New Delhi.
- (v) This order of Moratorium passed under Section 14 of the I&B Code, 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) 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.

(viii) 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 appointed.

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

9. The **CP (IB) No. 129/KB/2018 TP No. 32/CTB/2019** is disposed of accordingly.

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

Sd

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

Sd

M. B. Gosavi  
Member (J)

*Signed on this, 25<sup>th</sup> day of June, 2019.*

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