

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

**MA 366/2018
in C.P. (IB)1347(MB)/2017**

Under section 33(1)(a) of the IBC, 2016

Mr. Sanjay Gupta Applicant
(Resolution Professional)

In the matter of
Punjab National Bank
.....Petitioner/
Financial Creditor

v/s.

Vandana Energy & Steels Pvt. Ltd.
.....Corporate Debtor

Order delivered on 31.10.2018

Coram: Hon'ble Shri. V.P. Singh, Member (Judicial)
Hon'ble Shri. Ravikumar Duraisamy, Member (Technical)

For the Petitioner: 1. Ms Fatima Barodawala, Adv.
2. Mr Santanu T. Ray (Rep. of RP)

Per V.P. Singh, Member (Judicial)

ORDER

Mr. Sanjay Gupta, Resolution Professional (RP) has filed this Miscellaneous Application (MA No.:366/2018 in CP 1347/2017) u/s 33(1)(a) of Insolvency and Bankruptcy Code, 2016 (Code) seeking initiation of liquidation process of the Corporate Debtor, on the basis of recommendation of the the Committee of Creditors (CoC) passed in its meeting Dt 11.4.2018, for the approval of this Bench for Liquidation as envisaged under Section 33 of the Code, hence this application.

2. On perusal of this application, it appears that the Punjab National Bank filed a petition U/S Sec 7 of the I & B Code has been admitted on 20.10.2017, in pursuance thereof, Interim Resolution



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Professional (IRP) issued public announcement u/s 15 of the Code, inviting claims from the creditors. After having verified and admitted the claims received from the creditors, CoC was constituted comprising of the Financial Creditors of the Corporate Debtor. In furtherance thereof, first CoC meeting took place on 05.12.2017, wherein the CoC approved resolution for appointing the IRP as Resolution Professional.

3. The applicant given advertisement for invitation of expression of interest for the corporate debtor was published on 09.01.2018 against which he received expression of interest to submit resolution plan from three potential resolution applicants viz. Jindal Steel and Power Ltd., Saturn Ferro Allows and Lauls India Ltd.

4. After KYC details and undertaking u/s 29(2) of the Code were received from all three interested resolution applicants, Information Memorandum (IM) and other relevant documents were shared with them to formulate a resolution plan. However, there was no resolution plan submitted by any one of the above interested applicants.

5. As per the recommendation in the third CoC meeting held on 08.03.2018, a second invitation for expression of interest was published in newspapers on 10.03.2018 for which there was no response received till 10.04.2018.

6. As the interested applicants are backed out based on their observations that the scope of revival of the corporate debtor is insignificant, the CoC convened its fourth meeting on 11.04.2018 wherein the CoC approved initiation of Liquidation and recommended the RP to approach NCLT, Mumbai Bench for approval of liquidation.

7. This applicant appointed two Registered Valuers viz. Bestech Consultants Pvt. Ltd. and Rao & Rao Associates under Regulation 27 of Insolvency and Bankruptcy Board of India (Insolvency Resolution

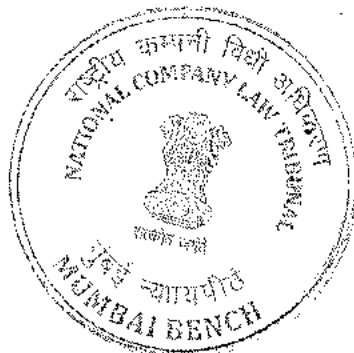


Process for Corporate Persons) Regulations, 2016 [IBBI(IRPCP)] for determination of Liquidation value of the assets of the Corporate Debtor by Regulation 35 of IBBI(IRPCP). As there was a significant difference in the valuation report submitted by the two registered valuers, as per the Regulation 35(2)(b) of IBBI, appointed a third valuer. Accordingly, E.R. Prakash Bhartiya and ER Prakash Agarwal were appointed for the valuation of Plant & Machinery and Land & Building, respectively. Basing on the valuation given by them, the RP determined the average value of two Valuers as ₹96.40 crores.

8. On the RP being asked to get the approval from this Bench under Section 33(2) of the Code, the applicant has filed this application.

9. On perusal of this application filed by the RP, this Bench having noticed that the CoC approved resolution with 100% voting for liquidation of this company under Section 33(2) of IB Code, 2016 read with the Regulations thereof, this Bench hereby orders as follows:

- a. That the Corporate Debtor be liquidated in the manner as laid down in the Chapter by issuing a Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to RoC under which this Company has been registered.
- b. As to appointment of Liquidator, the Resolution Professional i.e. the applicant herein is hereby directed to act as a Liquidator for the purpose of liquidation of Corporate Debtor company with all powers of the Board of Directors, key managerial persons and the partners of the Corporate Debtor shall cease to have effect and hereby vested in the Liquidator. The personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor. The Insolvency Resolution Professional



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appointed as Liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified under Regulation 4 of Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016 and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.

c. Since this liquidation order has been passed, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor without prior approval of this Adjudicating Authority save and except as mentioned in sub-section 6 of Section 33 of the Code.

d. This liquidation order shall be deemed to be notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.

5. Moratorium declared vide Order dated 07.08.2017 in CP No.: 1347/2017 ceased to exist.

6. Accordingly, the MA 366/2018 in CP 1347/2017 is hereby **allowed.**

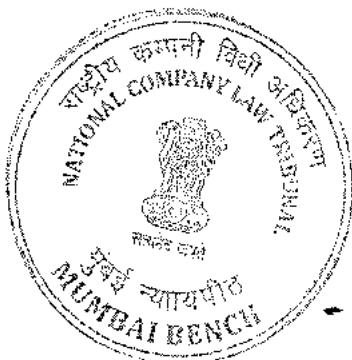
7. Registry is directed to communicate this order to the Applicant immediately by speed post by way of e-mail.

Sd/-


Sd/-

**RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)**

**V.P. SINGH
MEMBER (JUDICIAL)**



Certified True Copy
Copy Issued "free of cost"
On 6/11/2018


Assistant Registrar

National Company Law Tribunal Mumbai Bench