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IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

Item No. 132
(IB)-386(PB)/2018

IN THE MATTER OF:

UCO Bank

.... Applicant/petitioner

Vs.

Shree Shyam Pulp And Mills Ltd.

.... Respondent

SECTION:

Under Section 7 of IBC, 2016 (CIRP)

Order delivered on 21.01.2020

Coram:

SH. B.S.V. PRAKASH KUMAR
HON'BLE ACTG. PRESIDENT

MS. SUMITA PURKAYASTHA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant :

For the RP :

For the Respondent :

Mr. Kanishk Khetan, Ms. Shweta Thakur, Advs.
Mr. Rohit Sehgal

Mr. Rohit Choudhary, Adv. For Respondent No.2

ORDER

Per : SH. B.S.V. PRAKASH KUMAR, HON'BLE ACTG. PRESIDENT

HEARD AND DICTATED IN OPEN COURT:

CA-2005(PB)/2019:-

It is application under Section 33(2) of the Code for an order of liquidation of the Corporate Debtor based on the resolution passed by 4th CoC meeting dated 06.09.2019 with a majority of 97.56 % voting share.

On perusal of this application, it appears that this CP was admitted on 27.03.2019 by appointing Mr. Rohit Sehgal as IRP,



in pursuance thereof, the said IRP made a public announcement on 29.03.2019 inviting claims from creditors of the corporate debtor. On receipt of the claims aggregating to Rs. 359.05 crores from the financial creditors and Rs. 11 crores from the operational creditors, the IRP collated the claims and thereafter, constituted the CoC. Upon constitution of CoC, in the CoC meeting held on 22.04.2019, IRP was confirmed as RP, thereafter, on the valuation given by the two valuers appointed, the RP determined the liquidation value of the Company of Rs. 78.48 crores by taking average for the value given by the valuers, then in the second meeting held on 14.06.2019, soon after preparation of information memorandum, an invitation for EOI has been made, responding to the same, one EOI has been received. On having only one expression of interest, the CoC has made another effort by giving another invitation for EOI expecting some more EOIs would come but for none has come on the second invitation thereafter the CoC, repeated the same for about two times, since nobody came forward, ultimately on 06.09.2019, the CoC in its commercial wisdom passed resolution for liquidation of the company as nobody came forward to take this company. On the submission made by the resolution professional



counsel, the counsel appearing on behalf of the suspended directors has sought time to provide another proposal before the CoC. Upon which, when this Bench has asked as to whether the promoter directors are hit by Section 29A of the Code, there is no answer from the counsel, but in the meantime, resolution professional has helped this bench saying that this Corporate Debtor account is declared as NPA on 01.11.2014, even since it has not been regularized, therefore it is evident that the suspended directors are clearly hit by Section 29A, so it is clear the suspended directors are not eligible to make any plan either under Section 230 or under Section 30 of the Code whereby the plea made by the counsel for the suspended directors is hereby rejected.

On perusal of the application, we are of the view that the CoC, in its commercial wisdom, has taken a decision for liquidation of the corporate debtor, therefore, it is a fit case for liquidation.

Accordingly, we hereby direct for liquidation of the company with directions as follows:-

- a) This Bench hereby orders the Corporate Debtor to 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 with which this company has been registered.

- b) The Resolution Professional viz. Mr. Rohit Sehgal is hereby appointed to act as Liquidator for the purpose of liquidation of the corporate debtor, therefore, all powers of the board of directors, Key managerial personnel and partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be hereby vested in the liquidator. The Personnel of the Corporate Debtor are directed to extend all co-operations to the liquidation as may be required in managing the affairs of the Corporate Debtor. The Insolvency Professional 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 the Insolvency and Bankruptcy Board of India (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 proceedings 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 extent of the business of the



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Corporate Debtor is continued during the liquidation process by the Liquidator.

- e) The liquidator is directed to carry the functions of the Liquidator as envisaged under the Insolvency and Bankruptcy Code, 2016 and also Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

The Registry is hereby directed to immediately communicate this order to the Liquidator, the Corporate Debtor and the IBBI & concern ROC by way of E-Mail.

The application stands disposed of.

-sd-

(B.S.V PRAKASH KUMAR)
ACTG. PRESIDENT

-sd-

(SUMITA PURKAYASTHA)
MEMBER (TECHNICAL)

21.01.2020
Aarti Makker



1/1/2020
Deputy Registrar
National Company Law Tribunal
CGO Complex, New Delhi-110003