
(2020) 01 NCLT CK 0057

In the National Company Law Appellate Tribunal, Principal Bench, New Delhi

Case No : (IB) No. 922(PB) Of 2018

State Bank Of India

APPELLANT

Vs

Advance Sufactanta India Ltd.

RESPONDENT

Date of Decision : 14-01-2020

Acts Referred:

Insolvency And Bankruptcy Board Of India (Liquidation Process) Regulations, 2016 — Regulation 4
Insolvency And Bankruptcy Code, 2016 — Section 33(2), 33(6), 53

Citation : (2020) 01 NCLT CK 0057

Hon'ble Judges : B.S.V. Prakash Kumar, J; Santanu Kumar Mohapatra, Member (Technical)

Bench : Division Bench

Advocate : Anju B. Gupta, Kanishk Rana, Aditya Goel, K.G. Somani

Final Decision : Disposed Of

Judgement

CA-2673(PB)/2019:-

1. This is an application filed by RP under Section 33(2) of the Code seeking liquidation of the corporate debtor on the ground that CoC passed resolution on 22.11.2019 with 100 % voting share.

2. On perusal of this case, it appears that this company petition was admitted on 28.05.2019 on appointment of IRP Mr. K.G Somani, in pursuance thereof, this IRP has issued public announcement inviting claims from the creditors on 30.05.2019, soon after receipt of claims, the IRP collated the claims, and aggregate the admitted claims has come to 348 crores including financial creditors as well as operational creditors. On the valuation report given by the valuers over value of the liquidation value of the corporate debtor, the IRP, who subsequently confirmed as RP, determined the liquidation value as Rs. 20 crores. Subsequent thereto, on constitution of CoC, since no expression of interest has come forward responding to the invitation of the EOI, finally the CoC passed

resolution on 22.11.2019 recommending for liquidation of the corporate debtor with 100 % voting share on receipt of the consent from the RP to continue as liquidator. Hence, the RP filed this application for liquidation of the corporate debtor.

3. 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. K.G Somani 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 cooperations 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 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.