



NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.1
(MP) CP(IB) 6 of 2019

Proceedings under Section 7 IBC

IN THE MATTER OF:

Kotak Mahindra Bank Ltd
V/s
Gwalior Polypipes Ltd

.....Applicant

.....Respondent

Order delivered on 07/10/2024

Coram:

Chitra Ram Hankare, Hon'ble Member(J)
Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

IA(Liq.)/5(MP)2024

This case is fixed for pronouncement of the order.

The order is pronounced in open Court *vide* separate sheet.

Sd/-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

A. Bhadauria

Sd/-

CHITRA RAM HANKARE
MEMBER (JUDICIAL)



**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH**

**IA(Liq.) 5 of 2024
In
CP(IB) 6 of 2019**

(An application under section 33 of the Insolvency and Bankruptcy Code, 2016)

In the matter of:

CA Navin Khandelwal

Resolution Professional of
Gwalior Polypipes Limited
206, Navneet Plaza,
Old Palasia,
Indore
Madhya Pradesh- 452018

.....Applicant/Resolution Professional

In the main matter of:

CP(IB) 6 of 2019

(An application under section 7 of the Insolvency and Bankruptcy Code, 2016)

Kotak Mahindra Bank Limited

.....Financial Creditor

Versus

M/s Gwalior Polypipes Limited

.....Corporate Debtor

Order pronounced on: 07.10.2024

Coram:

Hon'ble Mrs. Chitra Hankare, Member (J)

Hon'ble Kaushalendra Kumar Singh, Member (T)

Present:

For the Applicant: Mr. Rohit Dubey, Advocate



JUDGMENT

1. This application has been filed by CA Navin Khanedelwal, Resolution Professional of M/s Gwalior Polypipes Limited (Corporate Debtor), under section 33 of the Insolvency and Bankruptcy Code, 2016 (the Code) for initiating the liquidation process of the corporate debtor.

2. The submissions made by the applicant in its application are summarized hereunder:

(i) The financial creditor i.e. Kotak Mahindra Bank Limited, had filed an application under section 7 of the Code seeking initiation of the Corporate Insolvency Resolution Process (CIRP) against the corporate debtor i.e. M/s Gwalior Polypipes Limited, which was admitted by the Adjudicating Authority vide order dated 01.09.2023. Mr. Navin Khandelwal (applicant herein), having IBBI registration no. IBBI/IPA-001/IP-P00703/2017-2018/11301, was appointed as the Interim Resolution Professional (IRP) of the corporate debtor vide order dated 02.11.2023.

(ii) The IRP made a public announcement of the CIRP of the corporate debtor on 10.11.2023, for inviting submissions of claims by the creditors. The last date for submission of claims was 22.11.2023. The IRP then constituted the Committee of Creditors (COC) consisting of sole member i.e., Kotak Mahindra Bank Limited.

(iii) In the 1st COC meeting dated 07.12.2023, proposal for appointment of IRP as RP was approved.

(iv) Form G for inviting the prospective resolution applicant was published on 16.03.2024 and the last date to submit Expression of Interest was 31.03.2024.

(v) In response to the Form G, seven Prospective Resolution Applicants (PRAs) showed interest and five were found eligible to submit their resolution plans. However, only two resolution applicants; namely



Swati Sanil Sahu and In Equine (Partnership Firm) submitted their resolution plans.

(vi) Both the PRAs were invited for detailed discussion and deliberation, however, the CoC after discussion decided to reject the resolution plans owing to two reasons; firstly, as the value of plan of both the PRAs was less than the liquidation value of the corporate debtor and secondly, the corporate debtor would get a better realisation as a going concern even in liquidation.

(vii) The extension of 90 days CIRP period beyond the 180-day period was approved in the 6th CoC meeting held on 15.04.2024. The said extension was also allowed by the Adjudicating Authority vide order 16.05.2024.

(viii) The COC in its 11th meeting dated 18.07.2024, resolved to liquidate the corporate debtor.

(ix) Further, the COC in its 11th meeting dated 18.07.2024, in accordance with Regulations 39B, 39BA, 39C, and 39D of the IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016, passed the resolutions as produced hereunder for ready reference:

(a) *“Resolved that the Committee of Creditors of Gwalior Polypipes limited-under CIRP be and hereby make/take note/approve Rs. 35,57,000/- as the estimate of the liquidation costs as per regulation 39B of CIRP regulation 2016, in the event an order for liquidation is passed under Section 33 of the Insolvency & Bankruptcy Code, 2016.”* (Regulation 39B)

(b) *“Resolved that Regulation 39BA of the Insolvency and Bankruptcy Board of India (Corporate Insolvency Resolution Process) Regulations, 2016 (hereinafter referred to as "CIRP Regulations") provides for the assessment of a Compromise or Arrangement proposed by the Corporate Debtor under Sections 230 to 232 of the Companies Act, 2013; and whereas a proposal*



for Compromise or Arrangement has been received and requires assessment by the Committee of Creditors (CoC) a separate meeting should be called up for evaluating the said proposal.”
(Regulation 39BA)

(c) *“Resolved that the Committee of Creditors of Gwalior Polypipes limited-under CIRP be and hereby recommend/approve that the liquidator to first explore sale of the corporate debtor as a going concern, as a whole under clause (e) of regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 if an order for liquidation is passed under section 33 of the Insolvency & Bankruptcy Code, 2016.”*
(Regulation 39C)

(d) *“Resolved that the Committee of Creditors of Gwalior Polypipes limited-under CIRP be and hereby fix & approve that the fees of Liquidator for the liquidation period including the period used for sale under clauses (e) and (f) of regulation 32 shall be Rs 2,00,000 per month plus taxes as applicable, in the event an order for liquidation is passed under Section 33 of the Insolvency & Bankruptcy Code, 2016.”* (Regulation 39D)

(x) Compliance Certificate in Form H under Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency resolution process for Corporate Persons) Regulations, 2016 is placed on record. The Fair Value of the corporate debtor is Rs. 28,45,69,821/- and Liquidation Value of the corporate debtor is Rs. 21,94,12,464/-.

(xi) The resolution professional is willing to continue as a liquidator in case the corporate debtor is put into the process of liquidation and the written consent for the same is also placed on record.

3. We have heard the learned counsel appearing on behalf of the resolution professional, and have perused the relevant material available on record. It is noted that the corporate debtor was admitted into CIRP vide order dated 01.09.2023. Form-G was published by the resolution professional and



the last date for submission of EOI was 31.03.2024 and five prospective resolution applicants were found to be eligible to submit their resolution plans. However, after discussion and deliberation, all the submitted resolution plans were rejected by the CoC. Thereafter, the COC in its 11th meeting dated 18.07.2024, passed a resolution for liquidation of the corporate debtor.

4. The COC resolved and approved the estimated liquidation cost at Rs. 35,57,000/- and liquidator fees of Rs. 2,00,000/-. The liquid assets have been estimated at Rs. 1,50,000/-. Furthermore, the COC resolved to explore first for compromise and arrangement and then to try for sale of the corporate debtor as a going concern. Further, the COC also passed a resolution that any amount of deficit in case of shortfall of the liquidation cost over the liquid assets shall be contributed by the CoC and will be deposited in a designated escrow account opened and maintained after passing of the liquidation order. Furthermore, the liquidation value and fair value of the corporate debtor is Rs. 28,45,69,821/- and Rs. 21,94,12,464/- respectively. As such, the application deserves to be allowed.

5. The applicant herein has provided its written consent to be appointed as the liquidator of the corporate debtor. However, IBBI in its letter dated 18.07.2023, has recommended that IP other than the IRP/RP may be appointed as liquidator in all the cases where a liquidation order is to be passed henceforth, and the liquidator can be appointed from the panel list of IBBI.

6. In view of the facts and circumstances and documents available on record, we pass the following order:

ORDER

- (i) The corporate debtor M/s Gwalior Polypipes Limited shall be put into liquidation in terms of the provisions of section 33 of the Code r.w. Regulations made thereunder which shall be effective from the date of this order. Accordingly, we allow IA(Liq.) 5 of 2024.



- (ii) The Moratorium declared under section 14 of the Code shall cease to have effect from the date of the order of liquidation.
- (iii) According to section 34(4)(b) of the Code and the letter dated 18.07.2023 of IBBI, we hereby appoint **Ms. Chaya Gupta** having **registration No. IBBI/IPA-002/IP-N00984/2020-2021/13133** as a liquidator of the corporate debtor i.e. M/s Gwalior Polypipes Limited. The liquidator so appointed shall complete the liquidation process as per the provisions of the Code r.w. the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- (iv) All the powers of the Board of Directors, key managerial persons, and the partner of the corporate debtor, as the case may be, hereafter cease to exist. All these power henceforth vest with the liquidator.
- (v) The personnel of the corporate debtor are directed to extend all cooperation to the liquidator as required by him in managing the liquidation process of the corporate debtor.
- (vi) Once the liquidation process is initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the corporate debtor. The liquidator has the liberty to institute a suit and other legal proceedings on behalf of the corporate debtor with the prior approval of this Adjudicating Authority, as provided in sub-section (5) of section 33 of the Code.
- (vii) 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 continued during the liquidation process by the liquidator.
- (viii) This Adjudicating Authority directs the liquidator to issue a public announcement stating that the corporate debtor is in liquidation. The liquidator will also serve a copy of this order to the various Government Departments such as Income Tax, GST, VAT, RPFC etc., who are likely to have any claim upon the corporate debtor so that the



authorities concerned are informed of the liquidation order timely. The liquidator will also provide a copy of this order to the trade unions/employee associations of the corporate debtor so that the workman/employees could also be informed of this liquidation order through their association.

(ix) The Registry is directed to communicate this order to the concerned Registrar of the Companies, the registered office of the corporate debtor, the resolution professional, and the liquidator by speed post as well as e-mail within one week from the date of this order.

(x) The present resolution professional is directed to hand over the relevant documents and control of the corporate debtor to the newly appointed liquidator forthwith.

7. Accordingly, IA(Liq.) 5 of 2024 in CP(IB) 6 of 2019 is disposed of.

Sd/-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

RR (LRA)