

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-II), KOLKATA**

**I.A.(IB) No. 1607 of 2023
C.P. (IB) No. 136/KB/2020**

An application under Section 33 of the Insolvency and Bankruptcy Code, 2016;

In the matter of:

PCS Electrical, having its office at 138/5, Sarsuna Main Road, Kolkata-700061, West Bengal.

...OPERATIONAL CREDITOR

Versus

WB Precision Engineering Solutions Private Limited, having its Registered office at 1B, Pal Street, Kolkata-700004, West Bengal.

....CORPORATE DEBTOR

And

In the matter of:

Mr. Kamal Prakash Singh, Resolution Professional of WB Precision Engineering Solutions Private Limited, having its address at South City Garden, 61 B. L. Saha Road, Tower-2 Flat-11 I, Kolkata-700053 West Bengal.

..... RESOLUTION PROFESSIONAL/APPLICANT

Date of Pronouncement: 09th February, 2024

CORAM:

SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)

SHRI D. ARVIND, HON'BLE MEMBER (TECHNICAL)

Appearances (via Video Conferencing/Physical):

**Mr. Rahul Parasrampur, PCS.] For Resolution Professional
Mr. Kamal Prakash Singh, RP in Person**

O R D E R

Per Bidisha Banerjee, Member (Judicial):

1. Heard. Learned Authorized Representative for the RP present. Ld. Counsel for RP in person present.

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-II), KOLKATA**

I.A.(IB) No. 1607 of 2023

C.P. (IB) No. 136/KB/2020

2. It is submitted that an Order dated 24.03.2021 this Tribunal was pleased to admit the Application filed under Section 9 of the Code, 2016 by the Operational Creditor, PCS Electrical for initiating Corporate Insolvency Resolution Process against the Corporate Debtor, WB Precision Engineering Solutions Private Limited and a moratorium under Section 14 has been declared.
3. It is submitted that the said Order dated 24.03.2021 passed in C.P. (IB) No. 136/KB/2020, this Tribunal was pleased to appoint Mr. Kamal Prakash Singh, having Registration No. IBBI/IPA-001/IP-P-01722/2019-2020/12653, as the Interim Resolution Professional of the Corporate Debtor for conducting the Corporate Insolvency Resolution Process.
4. It is submitted that an Order dated 18.04.2022 passed in C.P.(IB) No.136/KB/2020, this Tribunal was pleased to appoint Mr. Kamal Prakash Singh as Resolution Professional as the CoC has given their consent on 22.12.2021 through their voting power.
5. It is stated that a Public Announcement was made by the Interim Resolution Professional in Form A under Regulation 6(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016 on 27.03.2021.
6. It is submitted that on 2nd April 2021, the Applicant along with his representative visited the registered office of the Corporate Debtor to take charge of the Assets of the CD and meanwhile, the Applicant received One claim from Union Bank of India of Rs.3,57,44,116 and another claim from Operational Creditor herein called "PCS Electrical" for Rs.4,57,548.
7. It is submitted that the Committee of Creditors was constituted on 07.04.2021 and the Applicant has duly convened the following meeting of the Committee of Creditors (CoC) as on:

DATE	EVENTS
10.06.2021	First meeting of CoC held.
11.10.2021	Second meeting of CoC held.
22.12.2021	Third meeting of CoC held.

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-II), KOLKATA

I.A.(IB) No. 1607 of 2023

C.P. (IB) No. 136/KB/2020

29.04.2022	Fourth meeting of CoC held.
04.09.2023 and adjourned to 13.09.2023	Fifth meeting of CoC held.

- 8.** It is submitted by the Applicant that in the 3rd meeting of Committee of Creditors dated 22.12.2021, the Committee of Creditors has decided to proceed with the liquidation Proceedings of the Corporate Debtor by giving 100% consent through Ballot paper as there is no valuable assets present in the company and also stated that the corporate debtor was not cooperative with this case and there was no such mortgaged property which can be realised with a higher value. Copy of ballot paper where the CoC had given 100% consent for liquidation is attached herewith and marked as ANNEXURE A.
- 9.** It is submitted that the Resolution was put to vote and it was unanimously decided by the Committee of Creditors that the Corporate Debtor be liquidated under the provisions of Section 33 of the IBC, 2016.
- 10.** It is stated by the Applicant that an Order be passed, to initiate Liquidation of the Corporate Debtor and this Tribunal be pleased to appoint a Liquidator of its choice as no consensus was arrived at pertaining to the name of the Liquidator at the 3rd meeting of Committee of Creditor held on 22.12.2021 as the Applicant/Resolution Professional has no intention to be liquidator in this matter and would not want to be a liquidator in this matter and it is exclusively would be the decision of this Tribunal to decide who will be the liquidator in the instant matter.
- 11.** We have considered the submission made by the Applicant/RP in person and perused the record.
- 12.** This Bench, therefore, orders as follows: -
- a. IA No. 1607/KB/2023 filed by **Kamal Prakash Singh**, the RP of the Corporate Debtor, is allowed and the Corporate Debtor is

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-II), KOLKATA**

I.A.(IB) No. 1607 of 2023

C.P. (IB) No. 136/KB/2020

ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;

- b. Mr. Subrata Ghosh having Reg. No. IBBI/IPA-003/IPA-ICAI-373/2021-2022/13799, E-mail ID: subhomusic@gmail.com and having Mob. No. 9831048380 is hereby appointed as liquidator as provided under section 34(1) of the Code, subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019.
- c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, of the said newspapers stating that the Corporate Debtor is in liquidation.
- e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
- f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- g. On initiation of the liquidation process but subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-II), KOLKATA**

I.A.(IB) No. 1607 of 2023

C.P. (IB) No. 136/KB/2020

Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.

- h. In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a 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.
- i. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, Kolkata, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.
- 13.** The application bearing **IA (IB) No. 1670/KB/2023** shall stand disposed of in accordance with the above directions.
- 14.** **CP (IB) No. 136/KB/2020** to come up for filing of periodical report on **25.04.2024**.
- 15.** The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Id. Counsel for information and for taking necessary steps.
- 16.** Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

D. Arvind
Member (Technical)

Bidisha Banerjee,
Member (Judicial)

Signed on this the 09th day of February, 2024

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KOLKATA BENCH (Court-II), KOLKATA**

I.A.(IB) No. 1607 of 2023

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M. Jana (P.S.)/SG, Steno.