

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, CHENNAI**

**CP/646/IB/2017**

*Under Section 33(1) of the IBC, 2016*

**In the matter of M/s. SURANA POWER LIMITED**

M/s. GIMPEX PRIVATE LIMITED

---Operational Creditor

V/s

M/s. SURANA POWER LIMITED

---Corporate Debtor

**Order delivered on: 28.01.2019**

**Coram:**

**B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)**

**S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)**

For the Petitioners/OC: *Shri. Srikanth Dwarakanth, Advocate*

*Shri J. Abhishek, Advocate*

*For Resolution Professional*

For the Respondent/CD: *Shri. J. Manivannan, Advocate*

*For Liquidator*

**ORDER**

**Per: B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)**

**Order pronounced in the open court on: 22.01.2019**

It is a case, where CP/646/IB/2017 (filed u/s 9 of the Insolvency & Bankruptcy Code, 2016) was admitted on 19.02.2018 and declared Moratorium in respect of the Corporate Debtor from the date of admission by appointing Mr. Ebenezar Inbaraj as the interim Resolution Professional, thereafter Resolution Professional (RP) has been appointed to conduct the

CIRP of the Corporate Debtor. In pursuance of the same, the RP verified the claims made by the claimants and then appointed the valuers as contemplated under the Regulations. Soon after liquidation Valuation has been arrived at, when the RP published expression of interest expecting restructuring of the corporate debtor could be possible, nobody has come forward with any resolution plan. In the meanwhile, in the month of June 2018, M/s. Kirtane & Pandit, LLP and Chartered Accountancy Firm conducted Special Transaction Audit of the Corporate Debtor.

2. While the RP putting his efforts to get prospective Resolution Plan, the CIRP period of 270 days was over by 16.11.2018.
3. On hearing the submissions of the RP, we have understood that this Corporate Debtor hardly has any asset to repay the debts of the Company, we are also being told that this corporate debtor business has never taken off ever since its inception. He has also stated that the CoC has not passed Resolution suggesting the applicant to apply for liquidation. However this applicant now says that if 45 days extension is provided, he would get Resolution Plan, that contention raised by the applicant was already rejected. We already stated in the application (MA 590/2018) that such extension could not be granted on the ground that any such extension of time would become mere waste and leading to further reducing the residual value left in the company. Therefore, hereby urge to read the order in MA 590/2018 along with this order. It is alarming to hear that about

₹3000,00,00,000 loan was given to a company that has subsequently not even started any business.


4. Though this Applicant has not filed any application for liquidation, since this Bench is of the opinion that any delay in passing liquidation order will further reduce the value of the vestige remaining in the company, and this Bench being empowered u/s 33 (1) of the Code to pass liquidation order when no resolution plan has been approved in the maximum CIRP period enunciated in the section, we hereby pass the order for liquidation, which is 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 under which this Company has been registered.
- b) The Professional Applicant/Resolution Professional continues as the Liquidator, Mr. Srikanth Dwarkanth.
- c) Mr. Srikanth Dwarkanth is hereby directed to act as Liquidator for the purpose of liquidation 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 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.

- d) 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.
- e) 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.
- f) 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.

5. Accordingly, the liquidation of the corporate debtor is hereby ordered.

  
**(S. VIJAYARAGHAVAN)**  
**Member (Technical)**

  
**(B. S.V. PRAKASH KUMAR)**  
**Member (Judicial)**