

**NATIONAL COMPANY LAW TRIBUNAL
COURT No. – I, MUMBAI BENCH**

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**IA No. 1662/2019, IA No. 3644/2019, IA No. 1420/2020
IA No. 1989/2020, IA No. 1962/2020, IA No. 1989/2020
IA No. 2088/2020; & IA No. 98/2021**

**in
CP (IB) No. 3558/MB/2018**

**Bank of Baroda
V/S
Pratibha Industries Ltd**

*** **

Dated 8th February, 2021

ORDER

Sr. No. 21

The matter is taken up on VC.

IA No. 1662 of 2019:

The Counsel for the Applicant and Respondents are present. It is submitted that the pleadings in this matter are complete. This matter was earlier heard by a co-ordinate Bench. Meanwhile however, the constitution of Bench has changed. It would thus be appropriate to release this matter under Rule 152 (4) of the National Company Law Tribunal (NCLT) Rules, 2016 and the same would be heard afresh by this Bench.

List this matter on 08.04.2021 for hearing of the Application.

IA No. 1420 of 2020:

Mr. Shyam Kapadia, Counsel for the Applicant and Mr. Anil Masurkar, Counsel for the Respondents are present. It is submitted that the copy of the Application has been served on the other side. Counsel for the Respondents seeks time to file reply to the Application. He is permitted to file reply within 4 weeks by serving a copy to the other



side as well as to the Bench well ahead. Applicant is directed to furnish copy of the Application to the Bench. List this matter on 08.04.2021 for hearing.

IA No. 1989 of 2020:

Mr. Shyam Kapadia, Counsel for the Applicant and Mr. Anil Masurkar, Counsel for the Respondents are present. It is submitted that the copy of the Application has been served on the other side. Counsel for the Respondents seeks time to file reply to the Application and he is permitted to file reply by serving a copy to the other side as well as to the Bench well ahead. Applicant is directed to serve copy of the Application to the Bench and the Respondent is directed to comply with the orders dated 04.02.2020.

List this matter on 15.02.2021 for compliance and further orders.

IA No. 1962/2020:

Mr. Shyam Kapadia, Counsel for the Applicant and Mr. Anil Masurkar, Counsel for the Respondents are present. It is submitted that the copy of the Application has been served on the other side. Counsel for the Respondents seeks time to file reply to the Application. He is permitted to file reply by serving a copy to the other side as well as to the Bench well ahead. Applicant is directed to furnish copy of the Application to the Bench and the Respondent is directed to comply with the orders dated 04.02.2020.

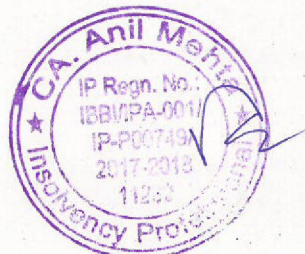
List this matter on 15.02.2021 for compliance and further orders.

IA No. 98 of 2021:

Counsel for the Applicant (RP) is present. There is no representation from the side of the Respondent. Applicant is directed to issue fresh notice to the Respondent and file proof of service. List this matter on 08.04.2021 for hearing.

IA No. 2088/2020

Counsel for both the sides are present. In view of the order dated 05.01.2021, the Resolution Plan in terms of the order dated 13.03.2020 was placed before the CoC on 08.01.2021. The CoC with 63.55 % voting share rejected the Resolution Plan. In view of the order dated 05.01.2021, the Application is disposed of. There is no Resolution Plan before the CoC.



The Application bearing IA No. 3644 of 2019 is taken up for hearing. Heard.

IANo.3644 of 2019 is an Application filed by the Resolution Professional under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 (the Code), seeking liquidation of the Corporate Debtor.

It is submitted that the Corporate Insolvency Resolution Process (CIRP) was ordered on 01.02.2019 and Mr.Sunil Kumar Choudhary was appointed as IRP of the Corporate Debtor.The CoC in its first meeting held on 01.03.2019, replaced the IRP with the Applicant (RP) Mr.Anil Mehta with a voting share of 99.85%. The replacement was approved by the order dated 14.03.2019 of this Bench. The 330 days for completing the CIRP had already been over. The CoC, vide order dated 13.03.2020 was directed to consider the Resolution Plan submitted by the Resolution Applicant within 21 days and take a decision on the same. However, the CoC was not able to consider the Resolution Plan in terms of the order dated 13.03.2020. One more opportunity was given to CoC to consider the Resolution Plan in terms of the order dated 13.03.2020 within a period of one month, vide the order of this Bench dated 05.01.2021.

In view of the order dated 05.01.2021, the Resolution Plan was put before the CoC and the CoC with 63.55 % voting share rejected the Resolution Plan.Hence IA No.3644 of 2019 was filed for liquidation of the Corporate Debtor was mentioned before the Bench and the same was taken up for hearing.

The CoC in its meeting held on 31.10.2019, decided to appoint the RP as the Liquidator of the Corporate Debtor.The Resolution Professional has given his consent to act as a liquidator of the Corporate Debtor.

Considering the fact that there is no Resolution Plan approved by the CoC and in view of the fact that the CIRP period ended, we are of the opinion that the liquidation of the Corporate Debtor under Section 33 of the Code can be ordered with the following directions:

- a) The Corporate Debtor i.e.Pratibha Industries Limited shall be liquidated in



the manner as laid down in Chapter-III of the Code.

- b) Mr. Anil Mehta, having Registration No. IBBI/IPA-001/IP-P00749/2017-2018/11282 is hereby appointed as the Liquidator of the Corporate Debtor. The Liquidator shall be entitled to such fees as may be specified by the Board in terms of Section 34 (8) of the Code.
- c) He shall issue public announcement stating that Corporate Debtor is in liquidation.
- d) The Moratorium declared under Section 14 of the IBC 2016 shall cease to operate here from.
- e) Subject to section 52 of the IBC 2016 no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- f) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- g) The liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.
- h) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- i) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- j) Copy of the Order shall be furnished to the IBBI, to the Regional Director (Western Region), Ministry of Corporate Affairs; Registrar of Companies



& Official Liquidator, Maharashtra, the Registered Office of the Corporate Debtor; and the Liquidator.

Accordingly, IA No. 3644 of 2019 is allowed and disposed of.

Sd/-
V. NALLASENAPATHY
Member (Technical)

Sd/-
JANAB MOHAMMED AJMAL
Member (Judicial)

