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**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
KOLKATA**

**CORAM: 1. Shri Madan B. Gosavi, Member Judicial)  
&  
2. Shri Virendra Kumar Gupta, Member (Technical)**

**C.P. (IB) No. 354/KB/2018**

**CA(IB)No.1801/KB/2019**

**In the matter of:**

An Application for initiation of corporate insolvency resolution process by an operational creditor under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with applicable provisions of the Insolvency and Bankruptcy Board of India (Insolvency Resolution for Corporate Persons) Regulations, 2016.

**And**

**In the matter of:**

**State Bank of India**, Stressed Assets Management Branch, Nagaland House, 8<sup>th</sup> Floor, 11 & 13, Shakespeare Sarani, Kolkata-700071.

- **Financial Creditor**

**Versus**

**Enfield Solar Energy Limited**, having its registered office at 9, Vivekananda Road, 4<sup>th</sup> Floor, Kolkata-700007, in the state of West Bengal under the aforesaid jurisdiction.

-**Corporate Debtor**

## Counsels on Record:

### For the Resolution Professional

1. Mr. Bijay Murmuria, Resolution Professional
2. Mr. Anuj Singh, Advocate
3. Mr. Barman, Advocate

Date of pronouncement of Order: 10<sup>th</sup> January, 2020.

## **ORDER**

Per Shri Madan B. Gosavi, Member(J)

1. At the instance of State Bank of India – the Financial Creditor, Corporate Insolvency Resolution Process (in short "CIRP") of the Corporate Debtor M/s. Enfield Solar Energy Limited – the Corporate Debtor was initiated by this Authority by order dated 27.06.2019 on the ground that the Corporate Debtor committed default in paying financial debt of Rs. 81,10,16,834/- (Rupees Eighty-One Crore Ten Lakh Sixteen Thousand Eight Hundred and Thirty-Four Only). Mr. Bijay Murmuria having registration no. IBBI/IPA-001/IP-N0007/2016-2017/10026 was appointed as the Interim Resolution Professional (in short "IRP")
2. On 26.07.2019, the IRP made public announcement of CIRP of the Corporate Debtor and called upon the creditors of the Corporate Debtor to submit claims with proof. It is seen from the record that IRP received claims from three (3) financial creditors i.e. State Bank of India, Rare Assets Reconstruction Limited and Indian Overseas Bank. He also received claims from some of the Operational Creditors. He constituted Committee of Creditors (in short "CoC") consisting of financial creditors allotting them voting percentage based on value of their debt. On 26.07.2019, the first CoC meeting was held. CoC confirmed his appointment as the RP in its first meeting.

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3. During CIRP, the RP visited the site of the Corporate Debtor i.e. to Sector-II, SEZ, Falta, Plot No. 15, Mauza - Akalmegh, PS-Ramnagar, South 24 Pargana PIN -743504 under Kalataluk Gram Panchayat.
4. The RP made arrangement of security personal to preserve assets and the factory. He filed application under Section 19(2) IBC, 2016 because he did not get cooperation from the directors of the Corporate Debtor. This Authority passed necessary direction and that application was disposed of.
5. The factory of the Corporate Debtor was then closed. RP visited registered office of the Corporate Debtor at 9, Vivekanand Road, 4<sup>th</sup> Floor, Kolkata. He did not find directors, officers or any staff of the Corporate Debtor. He did not get required books of accounts for preparation of Information Memorandum. However, on 08.09.2019, he published notice calling Expression of Interest/resolution plan from prospective resolution applicants on the basis of whatever information of the assets of the Corporate Debtor was available with him. He did not receive EOI or resolution plan for the Corporate Debtor. He brought this fact to the notice of the CoC. The CoC in its meeting dated 18.12.2019 passed a resolution by 66.6% votes requesting this Authority to pass order of liquidation of the Corporate Debtor.
6. CIRP period of the Corporate Debtor started on 27.06.2019. 180 days of CIRP period completed on 23.11.2019. The RP and CoC did not receive any resolution plan for the Corporate Debtor. CoC in its last meeting dated 18.12.2019 passed resolution by 66.6% votes requesting this Authority to pass order of liquidation of the Corporate Debtor. This Authority left with not option but to pass order of liquidation of the Corporate Debtor as per Section 31(1) IBC, 2016. We pass order of liquidation of the Corporate Debtor with upon the following directions: -

## ORDER

- (i) Corporate Debtor M/s **Enfield Solar Energy Limited** and having its registered office at 9, Vivekananda Road, 4<sup>th</sup> Floor, Kolkata-700007, in the state of West Bengal is ordered to be liquidated.
- (ii) Bijay Murmuria having registration no. IBBI/IPA-001/IP-N0007/2016-2017/10026, contact no. 9830039390, Email id- [bijaymurmuria@sumedhamanagement.com](mailto:bijaymurmuria@sumedhamanagement.com) is appointed as the liquidator.
- (iii) The Liquidator is directed to issue public announcement stating that the Corporate Debtor is in liquidation, in one of the leading English newspaper as well as in one vernacular newspaper having wide circulation where the registered office of the corporate debtor is situated as per Section 33(1) (b) (ii) of the Code read with Reg. 12 (1) of IBBI (Liquidation Process) Regulations, 2016.
- (iv) The Registry is directed to communicate this order to the Registrar of Companies, West Bengal and to the Insolvency and Bankruptcy Board of India (IBBI), New Delhi.
- (v) The Order of Moratorium passed under Section 14 of the I&B Code, 2016 shall cease to have effects and a fresh moratorium under Section 33 (5) shall commence.
- (vi) This order is deemed to be a notice of discharge to the officers, employees and the workmen of the Corporate Debtor as per Section 33 (7) of I&B Code, 2016.
- (vii) Since the CD company is a going concern, the liquidator is at the liberty to sell the CD company as a going concern as per the provisions of the Code and regulation.



(viii) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of the Insolvency and Bankruptcy Code, 2016.


(ix) Upon proceeding with the liquidation the Liquidator shall file a **preliminary report** as per regulation 5 read with Reg.13 of the IBBI (Liquidation) Regulations, 2016 at the registry within 75 days from the liquidation commencement date and continue to file **progress reports** as per Reg.15(1) within 15 days after the end of the quarter in which he is appointed.

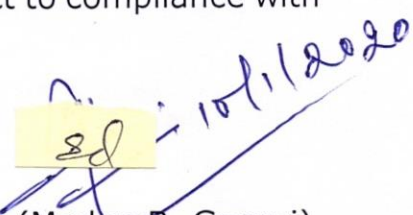
(x) The fee payable to the Liquidator shall form part of the liquidation cost as provided under Reg. 4(1) of the IBBI (Liquidation Process) Regulations, 2016.

(xi) The free copy of this order is to be sent to the RP/Liquidator, Operational Creditor and the Corporate Debtor by Speed Post as well as by email for information and for taking necessary steps.

(xii) CA(IB)No.1801/KB/2019 and CP(IB)No.354/KB/2018 stand **disposed of** as order of liquidation is passed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

  
(Virendra Kumar Gupta)  
Member( T )

  
(Madan B. Gosavi)  
Member( J )

Signed on this, the 10<sup>th</sup> January, 2020.

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