



INSOLVENCY PROFESSIONAL AGENCY  
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA

**Casebook Issue 22:**

Corporate Insolvency  
Resolution Process of  
Siddhi Vinayak Power  
Generation &  
distributors private  
Limited

**INSOLVENCY  
UNCOVERED**

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**About M/s Siddhi Vinayak Power Generation & Distributors Private Limited<sup>1&2</sup>**

M/s Siddhi Vinayak Power Generation & Distributors Private Limited is a Non-Government company, incorporated on 19<sup>th</sup> May 2011. It is a Private, unlisted company and is classified as a company limited by shares. It is registered under the Registrar of Company -Delhi Region. The Company's authorized capital was Rs. 200.00 lakhs and has paid-up capital of Rs. 23.00 lakhs. M/s Siddhi Vinayak Power Generation & Distributors Private Limited has a vintage of 9 years.

Board members & directors are Mr. Sabbineni Babu Surendra since inception of the company and Mr. Harihara Rao Garapati since 1<sup>st</sup> November 2011.

M/s Siddhi Vinayak Power Generation & Distributors Private Limited's Corporate Identification Number (CIN) is U74140DL2011PTC219442. It's registered address on file is 504, Kusal Bazar, Nehru Place, New Delhi-110019.

**Major Financial Creditors/Bankers<sup>3</sup>**

The major Financial Creditor for M/s Siddhi Vinayak Power Generation & Distributors Private Limited was Punjab National Bank with an exposure of Rs. 78.63 crores. They also had an exposure with an NBFC Reliance Capital Limited with an exposure of Rs. 4.50 crores.

**CIRP of Siddhi Vinayak Power Generation & Distributors Private Limited**

**Corporate Debtor files an application for initiating CIRP under Section 10 of the Insolvency and Bankruptcy Code, 2016** <sup>4&5</sup>

Company filed Petition under Section 10 of the Insolvency & Bankruptcy Code, 2016 ("IBC") read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 ("Rules"), for initiation of CIRP in respect of the applicant Company itself.

Section 10 of IBC,2016 empowers the defaulting company the right to approach the Adjudicating Authority to declare itself as insolvent and file a petition. This provides the company with an opportunity to resolve and revive the company through a successful resolution process.

M/s Siddhi Vinayak Power Generation & Distributors Private Limited passed the Board Resolution on 27th April 2018, wherein they authorized Mr. Thulipi Malikarjuna Rao as the authorized representative to file the application before the Tribunal to overcome the distress situation and also to restructure by way of adopting CIRP u/s 60(1) of the Code.

The Corporate Debtor recommended the name of Mr. Vijay Pitambar Lulla as the Interim Resolution Professional. The Company had written communication with the Insolvency Professional for his appointment as IRP.

The application was admitted under section 10 (4) (a) of the Code. The CIRP commenced from 10<sup>th</sup> August 2018 under sub-section 5 of section 10 of the Code.

**Order of Moratorium**<sup>6</sup>

Moratorium was effective from 10<sup>th</sup> August 2018 till the completion of the Corporate Insolvency Resolution Process (CIRP) as per sub-section (4) of Section 14 of IBC,2016.

### **Decision by CoC in their 1<sup>st</sup> Meeting**

In the first meeting of the CoC which was convened on 12<sup>th</sup> September 2018, the RP was not yet finalized by the Punjab National Bank being the major Financial Creditor. As per the resolution passed in the CoC meeting, PNB proposed the name of the Mr. Harish Chand Arora as the RP, yet no application was filed by them till then. Tribunal issued the notice to the PNB, through IRP Mr. Vijay P. Lulla for their negligence in taking action in a time bound process and advised to continue and act as the RP and take necessary steps involved in the CIRP process.

### **Appointment of Resolution Professional**

On 03<sup>rd</sup> October 2018, Application was filed by PNB under section 22 (3)(b) confirming that Mr. Vijay P. Lulla will continue to be as the RP in this matter. Notice was issued to IBBI for due confirmation of Mr. Vijay P. Lulla as the Resolution Professional in this case.

### **Change of Resolution Professional**

Application was filed on behalf of the CoC recommending the name of Mr. Shiv Nandan Sharma to be appointed as the Resolution Professional. The consent along with Form AA has been filed for RP. The name was forwarded to the IBBI and on 01<sup>st</sup> February 2019 IBBI confirmed that there is no Disciplinary Proceeding and thereby his name as RP is confirmed.

### **Resolution Professional (RP) files an application for extension of CIRP**

Resolution Professional (RP), Mr. Shiv Nandan Sharma, filed an application in NCLT for extension of CIRP under Section 12 of the Code. Therefore, in context of the same the RP filed application for an extension by 90 days. Prayer was made to the Bench to exclude the period of 30 days on account of change in RP. NCLT through its order dated 29<sup>th</sup> May 2019 allowed the extension of CIRP.

### **NCLT passes the Liquidation Order<sup>11</sup>**

Even after several attempts, no eligible Resolution Plan was received by any Resolution Applicant. The records showed that two Resolution Plans were received but none of them could be considered because while one of the Resolution Plan was not pursued by the Resolution Applicant, the other Resolution Applicant M/s Vihari Infra Projects and Developers India Pvt. Ltd. got disqualified under Section 29 (A).

On the other hand, the period of 270 days even after exclusion of 30 days, also lapsed on 29<sup>th</sup> June 2019. Under such circumstances, the only recourse was to of Liquidation. The Hon'ble Bench ordered for the consent of Liquidator, which was still awaited, vide its the order dated 05<sup>th</sup> July 2019.

### **Appointment of the Liquidator<sup>12</sup>**

Invoking the provisions under Section 33 (2) of IBC, 2016, filed application for liquidation of the Corporate Debtor. Mr. Nilesh Sharma filed his consent to act as Liquidator in the matter.

### **Application by Claimant against the Liquidator<sup>13</sup>**

One of the Claimants, ONGC had filed their claims, was being aggrieved by the rejection of their claim by the Liquidator. Rejection was made on the ground of delay in filing their claim. Though during the CIRP claim was admitted, but the same was not taken into account by the Liquidator.

### **Notice to Liquidator** <sup>14,15</sup>

Due to non-consideration of the admitted claims of ONGC by the Liquidator, notice was issued and was directed to be present in front of the Hon'ble Bench on 16<sup>th</sup> January 2020.

On 16<sup>th</sup> January 2020 the case got re-notified for the next date reconsideration.

Registry was directed to issue notice to the Liquidator. Counsel of the applicant was permitted to issue private Notice for personal appearance of Liquidator. If appearance is not made by liquidator, bench will issue warrant against the Liquidator. Vide order dated 16<sup>th</sup> March 2020 the case stands adjourned till 24<sup>th</sup> April 2020.

### **Concluding Notes**

Though the Hon'ble Bench of NCLT, New Delhi has directed for the liquidation of the Corporate Debtor and the consent of the Liquidator was also received but the Liquidation is still awaited. We notice that though, the Corporate Debtor themselves had taken the initiative for the CIRP and Resolution, but coincidentally it landed up for Liquidation and that too got stretched for a prolonged period. The final stage is still awaited.

## Timeline





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