

**NATIONAL COMPANY LAW TRIBUNAL**  
**COURT ROOM NO. 1,**  
**MUMBAI BENCH**

**Item No. 22**

**IA (Liq.)/65/2024 In C.P. (IB)/3302(MB)2019**

CORAM:

**SH. PRABHAT KUMAR      JUSTICE VIRENDRASINGH BISHT (Retd.)**  
**HON'BLE MEMBER (TECHNICAL) HON'BLE MEMBER (JUDICIAL)**

ORDER SHEET OF THE HEARING ON **09.07.2024**

NAME OF THE PARTIES:    **KEDAR INTERNATIONAL EXIM PVT.**  
**LTD.**

Section 10 of the Insolvency & Bankruptcy Code, 2016

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**ORDER**

**IA (Liq.)/65/2024**

- 1) This is an Interlocutory Application filed by the Resolution Professional **Shri. Manoj Kumar Mishra** under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 (the Code) for initiating Liquidation Process against **KEDAR INTERNATIONAL EXIM PVT. LTD.** (Corporate Debtor).
- 2) The facts leading to the case in hand are as follows:
  - a. Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated by this Tribunal vide order dated **08.12.2023** upon admission of a Company Petition under Section 10 of the Insolvency and Bankruptcy Code, 2016 (the Code) and the Applicant

herein was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor qua the Corporate Insolvency Resolution Process of the Corporate Debtor.

- b. It is submitted that following the order of the Bench appointing Shri. Manoj Kumar Mishra, the Applicant herein as the Interim resolution Professional of the Corporate Debtor have carried out the Function as mentioned under Insolvency and Bankruptcy Code, 2016.
- c. It is submitted that pursuant to receiving a copy of the Order on 13.12.2023, the CIRP process commenced w.e.f. 13.12.2023 and the Applicant began performing his functions and duties in his official capacity as the IRP, as envisaged in the Code r/w the CIRP Regulations including, inter alia, publication of the Form A on 14.12.2023 in 'Business Standard' (English Edition) and 'Navrashtra' (Marathi Edition) as per Regulation 6 of the CIRP Regulations. As on date the Applicant has received two claims in response to the Form A.
- d. On the basis of the claims admitted and since no claims from any financial creditors were received, the Applicant duly constituted the Committee of Creditors ("CoC") in accordance with Regulation 16 of the CIRP Regulations consisting of the Goods and Service Tax Department - Pune as the sole member holding 100% voting share in the CoC.

- e. Further, it is submitted that on perusing the information and documents as available with the Applicant, it has come to the knowledge of the Applicant that the Corporate Debtor is a Steel Trading firm and does not have any tangible assets in the form of land and building or plant and machinery.
- f. On 23.01.2024, the Applicant convened the 1<sup>st</sup> Meeting of the CoC where the Applicant placed the agenda of appointment of Resolution Professional ("RP"). Further, the Applicant communicated his disinterest to continue as the Resolution Professional of the Corporate Debtor and suggested the CoC to appoint another Insolvency Professional as the Resolution Professional. However, the CoC has not taken any decision in the 1<sup>st</sup> CoC Meeting, and has neither applied for the appointment of another Insolvency Professional to act as RP nor has approved the appointment of the existing Interim Resolution Professional as RP.
- g. Therefore, in such a deadlock situation, as per Regulation 17(3) of the CIRP Regulations the Applicant is contending in his capacity as the Deemed Resolution Professional of the Corporate Debtor w.e.f. the 40<sup>th</sup> day from the Insolvency Commencement Date i.e., from 22.01.2024 onwards.
- h. Subsequently, the Applicant called the 2<sup>nd</sup> Meeting of the CoC on 21.02.2024, wherein the CoC permitted the Applicant to publish Form

G inviting EoIs'. However, the CoC did not take any decision in the 2<sup>nd</sup> CoC Meeting with respect to the agenda of appointment of another Insolvency Professional as Resolution Professional.

- i. Therefore, with the consent of the CoC, the Applicant published the Form-G on 06.04.2024 in 'Financial Express' (English Edition) and 'Navrashtra' (Marathi Edition) having wide circulation in Pune, inviting Expression of Interests ("EoI") from Prospective Resolution Applicants ("PRA") till 22.04.2024. However, no EoIs' or inquiries were received from any PRAs' in response to the Form-G published.
  - j. Subsequently, the Applicant held the 4<sup>th</sup> CoC Meeting on 27.05.2024, where the Applicant placed the agenda for liquidation of the Corporate Debtor in terms of Section 33(1)(a) of the Code for voting among other agendas by way of manual voting sheets. The Applicant has received a copy of the voting sheet from the sole CoC Members on 31.05.2024 via mail, whereby the CoC has unanimously approved the resolution for liquidation of the Corporate Debtor with 100% voting share.
- 3) The Applicant submits that this Bench is vested with the powers to pass an order of Liquidation of the Corporate Debtor; since, no EoIs' or inquiries were received from any PRAs' in response to the Form-G published, the

order of liquidation shall be passed by this Adjudicating Authority under section 33 of the Code, which reads as under:

*“(1) Where the Adjudicating Authority, —*

*(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or*

*(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein, it shall—*

*(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;*

*(ii) issue a public announcement stating that the corporate debtor is in liquidation; and*

*(iii) require such order to be sent to the authority with which the corporate debtor is registered.*

*(2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan,*

*intimates the Adjudicating Authority of the decision of the committee of creditors to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1)''.*

- 4) Further, CoC has not submitted any name of the Liquidator.
- 5) This Authority is left with no option but to accept and to pass an order for liquidation of the Company in the manner laid down in Chapter III of the Code considering the fact there is no EoIs' or inquiries were received from any PRAs' in response to the Form-G published for consideration and CoC does not foresee any possibility of getting Plans in another round also. Hence ordered.

### **ORDER**

- a) The Application be and the same is allowed. The Corporate Debtor, **KEDAR INTERNATIONAL EXIM PVT. LTD.**, shall be liquidated in the manner as laid down in Chapter-III of the Code.
- b) **Mr. Charudutt Pandhrinath Marathe** having Registration No. **IBBI/IPA-001/IP-P00350/2017-2018/10651** is appointed as Liquidator of **KEDAR INTERNATIONAL EXIM PVT. LTD.**
- c) That the Liquidator for conduct of the Liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.

- d) The Moratorium declared under Section 14 of the IBC 2016 shall cease to operate here from.
- e) Liquidator shall issue public announcement stating that Corporate Debtor is in liquidation.
- f) The Liquidator shall endeavor to sale the Company as a going concern during the liquidation in terms of Regulation 32A of the Liquidation Process Regulations. In case he is not able to do so within a period of 90 days from this date, he shall proceed in accordance with clauses (a) to (d) of Regulation 32 of the Liquidation Process Regulations.
- g) Subject to Section 52 of the Code 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.
- h) 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.
- i) 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 the Liquidation Process Regulations.

- j) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
  - k) 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.
  - l) The Liquidator shall submit progress reports as per Regulation 15 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
  - m) The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.
  - n) Registry shall furnish a copy of this Order to the **Insolvency and Bankruptcy Board of India, New Delhi; Regional Director (Western Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Maharashtra; the Registered Office of the Corporate Debtor;** and the Liquidator, **Mr. Charudutt Pandhrinath Marathe**, having E-mail ID charuduttm@yahoo.co.in.
- 6) With the aforesaid observations and directions, the Interlocutory Application bearing **IA No (Liquidation) 65 of 2024**, stands **disposed of as Allowed.**

7) There would however be no order as to costs. Ordered Accordingly.

**Sd/-**

**PRABHAT KUMAR  
MEMBER (TECHNICAL)**

**Sd/-**

**JUSTICE VIRENDRASINGH BISHT  
MEMBER (JUDICIAL)**

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