

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH
MA 335/2018 in CP 725/I&BC/2017
Under Section 33 of IBC, 2016**

In the matter of

The Mauritius Commercial Bank
... Petitioner/Financial Creditor

vs

Varun Corporation Limited
... Respondent

Through
CS Prakash K Pandya
Resolution Professional
... Applicant

Order delivered on : 18.05.2018

**Coram: Hon'ble B.S.V. Prakash Kumar, Member (J)
Hon'ble Ravikumar Duraisamy, Member (T)**

For the Applicant: CS Prakash K. Pandya

Per Ravikumar Duraisamy, Member (Technical)



ORDER

The Applicant herein being the Resolution Professional has filed this Miscellaneous Application No. 335/2018 in CP No. 725/2017 under Section 33 of the Insolvency and Bankruptcy Code, 2016, seeking initiation of liquidation of the Corporate Debtor on account of Committee of Creditors passing a resolution on 14.03.2018 to get the approval of this Bench for Liquidation order as envisaged under Section 33 of the IB Code, hence this application.

2. On perusal of this application, this Bench has noticed that Section 7 Petition filed by the Financial Creditor/ Petitioner in the present Company Petition, namely, The Mauritius Commercial Bank has been admitted on 30.6.2017, in pursuance thereof, IRP issued public announcement under Section 15 of the IB Code, inviting claims from the creditors. After having verified and admitted the claims received

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from the creditors, COC was constituted and underwent changes three times after the admission of claims and comprised of the Financial Creditors of the Corporate Debtor, namely, The Mauritius Commercial Bank, Modest and Parsons International Private Limited and Standard Chartered Bank. The COC meeting that took place on 29.08.2017 unanimously approved the resolution allowing IRP to continue as Resolution Professional. This applicant in his capacity as Interim Resolution Professional appointed two Registered Valuers under Regulation 27 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for determination of Liquidation value of the assets of the Corporate Debtor in accordance with Regulation 35 of IBBI (IRPCP). Since this Valuers filed valuation report on 27.02.2018 and 5.3.2018 respectively, this RP determined the average valuation of two Valuers as Rs.26,85,26,000.

3. This application states that the Corporate Debtor holds substantial investments in a group company namely Varun Resources Limited, which constitutes approximately 49.4% of the total investments of the Corporate Debtor. Since the group company Varun Resources Limited is also under Corporate Insolvency Resolution Process and no resolution plan was approved for it, COC took a decision on 14.03.2018, that as no resolution plan was approved for Varun Resources Limited, the Corporate Debtor would not have any resolution plan too and upon elapse of the period of 270 days, the Resolution Professional shall apply to this Bench for liquidation of this Corporate Debtor.

4. This application also states that the Applicant herein had filed an application, being MA No. 11 of 2018 under Section 43 of the IB Code, which was allowed *vide* order dated 28th March, 2018.

5. On the RP being asked to obtain the approval from this Bench under Section 33(2) of the IB Code, the applicant herein has filed this application.



6. Upon perusal of this application filed by the RP, this Bench having noticed that the application moved by the RP to get an order under Section 33(2) of IB Code, 2016 and the Regulations thereof, this Bench hereby orders as follows:

- a. This Bench hereby orders the Corporate Debtor to be liquidated in the manner as laid down in the Chapter III of the IB Code 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. As to appointment of Liquidator, the Resolution Professional has expressed unwillingness to be appointed as Liquidator, however, this Bench directs the Resolution Professional to continue as Liquidator because he has been associated with the Corporate Insolvency Resolution Process since 30.06.2017. With regard to the past dues payable to the Resolution Professional, the COC had already decided in the Fourth COC meeting held on 14th March, 2018 to clear the dues within two days or so, therefore, the Mauritius Commercial Bank is hereby directed to pay the fees of the Resolution professional as agreed by them in the COC meeting within two weeks hereof.
- c. The Resolution Professional i.e. the applicant herein shall act as a 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 Insolvency and Bankruptcy



(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 IB 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 IB 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.
5. Accordingly, the MA No.335/2018 is hereby allowed.
 6. The Registry is hereby directed to communicate this order to the Applicant herein.

Sd/-

RAVIKUMAR DURAISAMY

Member (Technical)

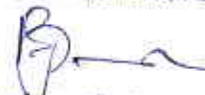


Sd/-

B. S. V. PRAKASH KUMAR

Member (Judicial)

Certified True Copy
Copy issued "free of cost"
On 11/6/2018


Assistant Registrar

National Company Law Tribunal, Mumbai Bench