IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
SPECIAL BENCH

Item No. 111
(IB)-144(PB)/2017

IN THE MATTER OF:

ICICI Bank Limited .... Applicant/petitioner
v.
SR Foils And Tissue Limited .... Respondent

Order under Section 7 of Insolvency & Bankruptcy Code (CIRP)
Order delivered on 04.03.2020

Coram:
SH. B.S.V. PRAKASH KUMAR
HON'BLE ACTG. PRESIDENT

SH. HEMANT KUMAR SARANGI
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the applicant	Mr. Abhishek Anand, Mr. Tushar Tyagi, Mr. Viren Sharma, Advs. for RP
For the respondent	Mr. P. Nagesh, Ms. Tania Sharma, Mr. S. Mishra, Advs.

ORDER

Heard and dictated in open court.

Per Shri B.S.V. Prakash Kumar, Actg. President

IA-1034(PB)/2020:-

It is an application moved by RP under Section 33(2) of the Code for liquidation of the corporate debtor based on the resolution passed by the CoC with 84.22 % voting share in its meeting held on 03.05.2019.

2. On perusal of the application, it appears that CP was admitted on 07.08.2017, by appointing Mr. Anil Kohli as IRP in furtherance it, the IRP issued public announcement on 10.08.2017 inviting claims of the creditors, in pursuance thereof,

after receipt claims, they were collated, and the aggregated value of the claim has come to 704.47 crores. Thereafter, upon constitution of the CoC on 28.08.2017, the IRP was confirmed as RP. Then the RP appointed two valuers for valuing the liquidation of the company, on receipt of the two valuation reports from them, taking the average of the value given by two valuers, the liquidation value of the company is determined as Rs. 30.03 crores.

3. Subsequent thereto, time has gone in to determination of undervalue transaction, soon after disposal of this application, the RP has given several Invitations of Expression of Interest on 23.10.2017, 29.11.2017, 06.04.2018 & 28.03.2019. Despite four invitations of EOI given, it appears that only one person i.e. objector in the application came forward with an EOI but whereas as per submission of RP, the objector failed to place the EMD along with EOI on 28.03.2019.

4. As against this application the objector i.e. the prospective resolution applicant has stated that every time whenever EMD was placed before this RP that was appropriated by the RP towards the differential amount, to which the RP simultaneously replied saying that is not appropriation of any EMD amount, those monies, as per the request of this very objector, who adjusted against the differential amount payable by this applicant

thereto, now this objector cannot attribute even action of appropriation of the EMD against the differential amount at the volition of the RP.

5. Now the arguments of this objector, is in case this objector is permitted to file his EOI an another round of invitation, he would be in a position to place the resolution plan with a value more than the liquidation value determined by the RP.

6. Though this company petition has been admitted on 07.08.2017, till date neither resolution plan has come for approval before this Bench, nor has this bench decided the liquidation application pending before this Bench despite soon after two and half years passed by now. This objector has come before this Bench asking for another round of invitation of EOI is not acceptable because the CIRP period has already been over on 03.06.2019, therefore, we are of the view that this company petition is fit for passing the liquidation order because it is the CoC that has taken a decision that the liquidation is the only course left to it to proceed, whereby, we hereby ordered for liquidation of the company with the directions as follows:-

a) This Bench hereby orders the Corporate Debtor to be liquidated in the manner as laid down in the chapter 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 with which this company has been registered.

b) The Resolution Professional viz. Mr. Anil Kohli is hereby appointed to act as Liquidator for the purpose of liquidation of the corporate debtor, therefore, all powers of the board of directors, Key managerial personnel and partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be hereby vested in the liquidator. The Personnel of the Corporate Debtor are directed to extend all co-operations to the liquidation as may be required 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 the Insolvency and Bankruptcy Board of India (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 Code.

c) Since this liquidation order has been passed, no suit or other legal proceedings 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 Code.

d) This liquidation order shall be deemed to be notice of discharge to the officers, employees and workmen of the Corporate Debtor except to extent of the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.

e) The liquidator is directed to carry the functions of the Liquidator as envisaged under the Insolvency and Bankruptcy Code, 2016 and also Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

The Registry is hereby directed to immediately communicate this order to the Liquidator, the Corporate Debtor and the IBBI & concern ROC by way of E-Mail.

Accordingly, this application stands disposed of.

In view of the order passed in IA-1034(PB)/2020, IA No. 1698 & 1706(PB)/2020 are dismissed as misconceived.

CA-2517(PB)/2019:-

List on 14.04.2020.

Sd/-

(B.S.V PRAKASH KUMAR)
ACTG. PRESIDENT

Sd/-

(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)

04.03.2020
Aarti Makker