

NATIONAL COMPANY LAW TRIBUNAL

COURT ROOM NO. 1,

MUMBAI BENCH

Item No. 15

IA 1188/2021 in C.P.(IB)2251/MB/2019

CORAM:

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

ORDER SHEET OF THE HEARING ON 03.10.2023

**NAME OF THE PARTIES: UCO BANK V/S CHHATRAPATI AGRO
FOOD MANUFACTURING CO LTD**

Section 60(5) & 7 of the Insolvency & Bankruptcy Code, 2016

ORDER

IA 1188/2021

- 1) Mr. Ayush Rajani, Practicing Chartered Accountant for the Applicant/Resolution Professional of the Corporate Debtor and Mr. Sachin Rajendra Singhvi, Resolution Professional of the Corporate Debtor are present.
- 2) The present Interlocutory Application has been filed by the Applicant in his capacity as a Resolution Professional of the Corporate Debtor under Section 33(1) r/w Section 34(1) of the Insolvency and Bankruptcy Code, 2016, seeking Liquidation of the Corporate Debtor.

- 3) Corporate Insolvency Resolution Process was Ordered in the case of the Corporate Debtor *vide* and Order dt. **07.11.2019** on the Company Petition filed by UCO Bank u/s 7 of the Insolvency and Bankruptcy Code, 2016 and the Applicant herein was appointed as the Interim Resolution Professional of the Corporate Debtor.
- 4) Pursuant to the above said Admission Order, the Applicant had issued public announcement on **20.11.2019, issued on IBBI Website**, for inviting claims from all the creditors in **FORM A** and was published in Newspapers on **21.11.2019**. Last date of submissions of claims was **03.12.2019**.
- 5) Thereafter, the Applicant herein had constituted Committee of Creditors (CoC) and on 09.12.2019 placed on record Report Certifying constitution of CoC. It is further submitted that the Applicant herein was confirmed as Resolution Professional of the Corporate Debtor on 27.12.2019 with 100% voting in favour during the 2nd meeting of CoC.
- 6) It is further submitted that the Applicant herein during the course of CIRP appointed two valuers, registered with Insolvency and Bankruptcy Board of India, each for Land & Building and Plant & Machinery.
- 7) Applicant thereafter had issued invitation for Expression of Interest (EoI) on 20.01.2020 and the last date for receipt of EoI was 04.02.2020 and last date for submission of Resolution Plan was 20.03.2020, which was later on extended upon the approval of the CoC and hence, last date for receipt of EoI was 24.02.2020 and for Resolution Plan was 02.04.2020.

- 8) However, pursuant to same, the Applicant had not received any EoI and thus, the Applicant herein issued 2nd extension of invitation of EoI on 04.03.2020 and last date for receipt of EoI was 12.03.2020 and for submission of Resolution Plan was 18.04.2020.
- 9) Applicant submits that he has received EoI from Mr. Rajkumar F. Dharu, Mr. Nagesh A. Nashte and M/s. KLJ Resources Limited; however, no documents were received from M/s. KLJ Resources Limited and certain documents as required by the invitation for EoI were pending to be received from both the Parties. Therefore, the CoC members after considering the COVID-19 situation, allowed both the Prospective Resolution Applicants the requisite time to submit all the documents. Applicant however submits that he has only received part documents from Mr. Rajkumar Dharu and no documents have been received from M/s. KLJ Resources Limited.
- 10) In failure of receipt of Resolution Plan from the Prospective Resolution Applicant, the Applicant herein again issued EoI on 09.11.2020 and the last date for receipt of EoI was 25.11.2020 and last date for submission of Resolution Plan was 08.01.2021. It is further submitted that the Applicant had received Resolution Plan from Sole Prospective Resolution Applicant; however, the requisite Guarantee/Earnest Money of Rs. 50 Lakhs as per the RFRP document was not paid along with the Resolution Plan. Hence, the members of CoC requested the Prospective Resolution Applicant to submit the complete Resolution Plan as per

RFRP document along with requisite Bank Guarantee/ Earnest Money, which is a precondition for submission of the Binding Resolution Plan referred in RFRP.

- 11) However, in the backdrop of non-receipt of Guarantee from the Prospective Resolution Applicant, the CoC has not considered the same and no Resolution Plan was received despite best efforts.
- 12) Thereafter, the Applicant submits that during the 7th CoC meeting held on 23.09.2020, CoC decided to seek an extension of 90 days along with exclusion of lockdown period, exploring the possibility of seeking Resolution Plan from the said Interested Party and accordingly, the Applicant moved an Interlocutory Application for the same relief. However, the Applicant submits that since none of the party had shown their interest to come forward with Complete Resolution Plan for the Corporate Debtor; the sole CoC member in 14th CoC meeting held on 25.05.2021, decided to conduct voting and thereby decided to initiate the Liquidation Process of the Corporate Debtor. The said Resolution for Liquidation of the Corporate Debtor was approved with 100% voting share.
- 13) Hence, the present Interlocutory Application has been filed for Liquidation of the Corporate Debtor considering that the sole Financial Creditor has approved Resolution for Liquidation of the Corporate Debtor with 100% voting shares.
- 14) Further the sole CoC member does not want to proceed in the matter of Corporate Insolvency Resolution Process of **Chhatrapati Agro Food Manufacturing Co Ltd** in accordance with provisions of the Insolvency and Bankruptcy Code, 2016 and the sole Member of CoC in its wisdom has resolved

with 100% voting share in favour of the Liquidation of the Corporate Debtor and also considering that since there are no Resolution Plans for consideration of the CoC, this Authority has no reason before it to take a contrary view in terms of Section 33(1) of the Insolvency and Bankruptcy Code, 2016.

15) Having considered the submissions and on perusal of averments made in the present Interlocutory Application, this Bench is of the considered view that the present Interlocutory Application filed by the Applicant is in consonance with Section 33(1) of the Insolvency and Bankruptcy Code, 2016; hence, this Bench has no option except to pass an order for Liquidation of the Corporate Debtor, **Chhatrapati Agro Food Manufacturing Co Ltd**, in the manner laid down in Chapter III of the Code. Hence ordered.

ORDER

- a) The Application be and the same is allowed. The Corporate Debtor, **Chhatrapati Agro Food Manufacturing Co Ltd**, shall be liquidated in the manner as laid down in Chapter-III of the Code.
- b) **Mr. Fanendra Harakchand Munot** having Registration No. **IBBI/IPA-001/IP-0515/2017-18/10916** is appointed as Liquidator of **Chhatrapati Agro Food Manufacturing Co Ltd**, as the name of the Liquidator is nominated by the sole CoC member and the Liquidator has also given his written consent to act as Liquidator of the Corporate Debtor.

- 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 endeavour 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 file and place on record 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 (i)Insolvency and Bankruptcy Board of India, New Delhi; (ii)Regional Director (Western Region), Ministry of Corporate Affairs; (iii)Registrar of Companies & Official Liquidator, Maharashtra; (iv)the Registered Office of the Corporate Debtor; and the Liquidator, Mr. Fanendra Harakchand Munot, having address at 6th Floor,**

**Mafatlal House Building, H T Parekh Marg, Backbay
Reclamation, Mumbai – 400 020.**

16) With the aforesaid observations and directions, the Interlocutory Application bearing **IA No. 1188 of 2021**, stands disposed of as Allowed. There would however be no order as to costs. Ordered Accordingly.

Sd/-

**PRABHAT KUMAR
MEMBER (TECHNICAL)**

Sd/-

**JUSTICE VIRENDRASINGH BISHT
MEMBER (JUDICIAL)**

Vedant Kedare