IN THE NATIONAL COMPANY LAW TRIBUNAL

JAIPUR BENCH

IB No. 715/ND/2018
TA No. 152/2018

UNDER SECTION 9 of IBC, 2016

In the matter of:

M/s Alert Security And Allied Services

Under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 and having its registered office at: 155/30, Gali No. 7, Hari Nagar, Kanker Khera, Meerut-250001, U.P.

.....Applicant/Petitioner

VERSUS

M/s Neo Aid Communication (India) Private Limited
Plot No. B2/535, G-2,
Sector-2, Opp. North Gate,
Pratap Stadium Chitrakoot,
Vaishali Nagar, Jaipur,
Rajasthan-302021.

.......Respondent/Corporate Debtor

Order delivered on 24.01.2019

CORAM: SHRI R. VARADHARAJAN, MEMBER (JUDICIAL)

FOR PETITIONER (S)	:	**SUSSHIL DAGA, ADV.** **MUDIT MANOHAR, ADV.**
FOR RESPONDENT (S)	:	**NONE APPEARED.**

Dated: ~~24~~25.01.2019

ORDER

1. Based on application moved by the Operational Creditor, against the Corporate Debtor for initiation of the Corporate Insolvency Resolution Process (CIRP) under Section 9 of the Insolvency Bankruptcy Code, 2016 and having been convinced in relation to the non-payment of the claim amount made in the petition by the Operational Creditor pointing out to a default as envisaged under the provisions of Section 9 of IBC, 2016, this Tribunal admitted the insolvency petition on 09.07.2018 and also appointed one Mr. Mahender Prakash Khandelwal as Interim Resolution Professional (IRP) in relation to the affairs of the Corporate Debtor. It is seen from the records that in the first meeting of the CoC held on 12.08.2018 the appointment of the Interim Resolution Professional (IRP) was confirmed as a resolution professional and it is also brought to the notice of this Tribunal by report filed vide Diary No. 63/2019 dated 10.01.2019 that in the first meeting of the CoC claims have been submitted by two Financial Creditors namely Neogrowth Credit Private Limited and Capfloat Financial Services Private Limited. Subsequently, the second CoC meeting it is reported was held on 10.10.2018 and the reports points out that a 3rd Financial Creditor namely Religare Finvest Limited had filed its claim.

2. The minutes of the fourth meeting of CoC held on 27.12.2018 has been annexed and a perusal of the same shows that the CoC entrusted in appointing a

valuer in view of the fact that the funds of the Corporate Debtor has been invested in wholly owned subsidiary. However, appointment of Forensic Auditor has been dissented to by all the members of the CoC as recorded in the minutes of the fourth CoC meeting which was held on 27.12.2018. In the said meeting the CoC has also taken a call in relation to seeking for extension of time of the CIRP by further period under Section 12 of IBC, 2016.

3. Pursuant to the fourth meeting of CoC held on 27.12.2018 as evident from the minutes of the CoC a meeting has been held on 08.01.2019 and it is seen that a discussion had taken place in relation to the filing of an application under Section 12 of IBC, 2016 read with attendant regulations seeking for extension of time period and the same has been assented to by all the members. Pursuant to which this application under Section 12 seeking for extension of time has been filed under Section 12(2) of IBC, 2016. The primary reason seeking for extension it is represented that an essential cause for delay in the completion of the CIRP arose because the files came to be transferred from NCLT, New Delhi to NCLT, Jaipur Bench and that in the circumstances the period in relation to transfer of files from one Bench to another should be excluded in computing the 180 days period.

4. After hearing the submissions of learned counsel for the RP in relation to the application for extension of time, this Tribunal queried as to whether there is any possibility of resolving the insolvency of the Corporate Debtor, as the

reason stated for extension of time based on transfer of files from one Bench to another is not in any way material in relation to the functioning of the RP or of the CoC in resolving the insolvency of the Corporate Debtor. It was represented by learned counsel for the RP that the CoC in tandem with the RP had come to a conclusion that there is no possibility of resolving the insolvency of the Corporate Debtor as no resolution plan has come forth in relation to Corporate Debtor. Further it was also pointed out by the learned counsel for RP that in the CoC meetings held consistently the members of the CoC being the Financial Creditors have expressed their inability to arrange for any additional funds by way of interim finance and in the circumstances has concluded that the only possibility is to go in for liquidation.

5. Taking into consideration the above facts in relation to the affairs of the Corporate Debtor and also considering the provisions of Section 33(1) of IBC, 2016 which is to the following effect: -

> *(i) 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.*

this Tribunal is of the view that in the absence of resolution plan coming forth no worthwhile purpose will be served in extension of the period of CIRP as sought for in the application and therefore it is expedient to order for liquidation of the Corporate Debtor. In view of the order of liquidation as made above of the Corporate Debtor namely, Neo Aid Communication (India) Private Limited the following consequences will follow: -

(i) M/s Neo Aid Communication (India) Private Limited to be liquidated in the manner as laid down under the provisions of IBC, 2016, more particularly given in Chapter-III of IBC, 2016 and also in terms of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

(ii) Consequently, the Liquidator named being the present RP himself namely, Mr. Mahendera Prakash Khandelwal having Registration No. IBBI/IPA-002/IP-N00446/2017-18/11275 will act as the liquidator for the purpose of carrying forward the liquidation mode and is directed to issue a public announcement as envisaged under the provisions of IBC, 2016 read with Attendant Regulations stating that the Corporate Debtor is in liquidation and also communicate to Registrar of Companies, Jaipur forthwith, with whom the Corporate Debtor is registered in the register of Companies.

(iii) Communication be also duly sent to the Income Tax Authorities as contemplated under Section-178 of Income Tax Act, 1961 as well as to other revenue authorities which has a bearing on the operations of the Corporate Debtor. Liquidator to file reports from time to time before this Tribunal as mandated and within the specific time period as contemplated under the provisions of IBC, 2016 and Regulations framed thereunder.

(iv) The CIRP of the Corporate Debtor comes to a close and moratorium granted under Section 14 of IBC, 2016 at the time of admission is also lifted. However, provisions of Section 35(5) and 33(6) of IBC, 2016 shall apply.

Sd—
25.01.2019

(R.VARADHARAJAN)
MEMBER (JUDICIAL)

Mahabir Singh