IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

Coram: SHRI P.S.N PRASAD,
HON'BLE JUDICIAL MEMBER

SHRI RAGHU NAYYAR,
HON'BLE TECHNICAL MEMBER

IA No. 316/JPR/2019
in
CP (IB) No. 132/9/JPR/2019

UNDER SECTION 33(2) READ WITH SECTION 34 AND SECTION 60(5) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016

In the matter of:

Mrs. Pratibha Khandelwal
Resolution Professional of
M/s. Ojasvi Agritech Private Limited
Registered office: B2/535, G-2, Bhanu Apartment
Opp. North Gate of Chitrakoot Stadium, Chitrakoot,
Vaishali Nagar, Jaipur-302021

...Applicant/Resolution Professional

And in the matter of:

Suraj Mal Sharma

...Operational Creditor

VERSUS

M/s. Ojasvi Agritech Private Limited

...Corporate Debtor

For the Applicant : Puneet Maheshwari, Adv.
Pratibha Khandelwal, RP

For the Respondent(s): None-appeared

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MEMO OF PARTIES

IN THE MATTER OF

Mrs. Pratibha Khandelwal
Resolution Professional of
M/s. Ojasvi Agritech Private Limited
Office: T-5/1001, Rangoli Greens, Maharana Pratap Marg,
Panchyawala, Vaishali Nagar, Jaaipur-302021

...Applicant/Resolution Professional

AND IN THE MATTER OF:

Suraj Mal Sharma
Office: D-5, Chandra Mahal Colony,
Chini Ki Burj, Gangori Bazar, Jaipur-302003

...Operational Creditor

VERSUS

M/s. Ojasvi Agritech Private Limited
Registered office: B2/535, G-2, Bhanu Apartment
Opp. North Gate of Chitrakoot Stadium, Chitrakoot,
Vaishali Nagar, Jaipur-302021

...Corporate Debtor

Order Pronounced On: 28.11.2019

ORDER

Per: Shri Raghu Nayyar, Technical Member

1. This Application IA/316/JPR/2019, is filed by the Resolution Professional ('Applicant') under Section 33(2) read with Section 34 and 60(5) of the Insolvency and Bankruptcy Code ('IBC'), 2016 and Read with Rule 11 of the NCLT Rules, 2016 for initiation of Liquidation Proceedings against *M/s. Ojasvi Agritech Private Limited*, ('Corporate Debtor').

2. Earlier, an Application under Section 9 of the IBC, 2016 was filed by one Mr. Suraj Mal Sharma ('Operational Creditor'). This Tribunal admitted the insolvency petition on 19.07.2019 and appointed Mrs. Pratibha Khandelwal, the Applicant herein, as Interim Resolution Professional ('IRP').

3. The Applicant has submitted that she made the public announcement on 21.07.2019 inviting the claims from the creditors of the Corporate Debtor, pursuant to which 3 claims were received by the IRP. Accordingly, the Committee of Creditors ('CoC') was constituted, having Bajaj Finance Limited as the sole Financial Creditor of the Corporate Debtor.

4. The first meeting of the CoC was held on 17.08.2019, wherein the CoC resolved to appoint Mrs. Prathibha Khandelwal as Resolution Professional

('RP'), and the same was confirmed by this Tribunal vide its order dated 23.08.2019.

5. The Applicant has submitted that in the second Meeting of CoC, held on 06.09.2019, the sole financial creditor, i.e., Bajaj Finance Ltd. having 100% voting rights passed resolution for liquidation of the Corporate Debtor as the Corporate Debtor is not doing any business since last one year and no asset is available in the Company. The operative part of the Resolution is reproduced as below: -

> *"**RESOLVED THAT** pursuant to the provisions of Insolvency and Bankruptcy Code, 2016 (the "Code"), and other applicable provisions, if any, including any statutory modifications or any amendments or any substitution or re-enactment thereof, if any, and subject to approval of the Hon'ble National Company Law Tribunal (NCLT), consent of the Committee of Creditors (CoC) be and is hereby accorded to liquidate the affairs of the Company."*
>
> *"**RESOLVED FURTHER THAT** Mrs. Pratibha Khandelwal, the Resolution Professional (RP) be and is hereby authorised to do all such acts, deeds and things as may be necessary, expedient and incidental thereto to give effect to this resolution."*

6. Taking into consideration the above facts and circumstances in relation to the affairs of the Corporate Debtor, the provisions of Section 33(2) of IBC, 2016 are as follows: -

> *"(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 creditor approved by not less than sixty-six percent of the voting share to liquidate the corporate debtor, the adjudicating Authority shall pass a liquidation order as referred to in sub-clause (1), (ii) and (iii) of clause (b) of Sub-Section (1)"*

7. This Tribunal in the circumstances of the case, taking into consideration the provisions of law as well as on facts, is constrained to order for liquidation of the Corporate Debtor and amidst such background the Corporate Debtor stands liquidated with the incidence of liquidation to follow, on and from the date of this order in terms of the provisions of IBC, 2016 and more particularly as given in Chapter – III of IBC, 2016 and also in terms of Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 along with the following directions:

   a. **Mrs. Pratibha Khandelwal,** Resolution Professional holding Registration No. IBBI/IPA-002/IP-N00031/2016-17/10068, is hereby appointed as Liquidator, for which she has given written consent.

b. **Mrs. Pratibha Khandelwal** is directed to issue Public Announcement stating that the Corporate Debtor is in liquidation, in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;

c. The Registry is directed to communicate this Order to the Registrar of Companies, Jaipur and to the Insolvency and Bankruptcy Board of India;

d. In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. Similarly, in relation to other fiscal and regulatory authorities which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation

e. The Order of Moratorium passed under Section 14 of the IBC, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the IBC, 2016 shall commence;

f. This order is deemed to be a notice of discharge to the officers, employees and the workmen of the Corporate Debtor as per Section 33(7) of the IBC, 2016;

g. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the IBC, 2016 and in accordance with the relevant regulations.

h. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.

i. Copy of this order be sent to the Corporate Debtor and the Liquidator for taking necessary steps.

Sd/-	Sd/-
SHRI RAGHU NAYYAR, TECHNICAL MEMBER	**SHRI P.S.N. PRASAD JUDICIAL MEMBER**