IN THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.303

IA/244(MP)2022
in
C.P.(IB)/43(MP)2021

Proceedings under Section 33(2) IBC

IN THE MATTER OF:

Nishant Agrawal, RP of M/s Sri Sdev Naturals Resources India Pvt Ltd ....**Applicant**

V/s

M/s Sri Sdev Naturals Resources India Pvt Ltd & Ors ....**Respondents**

Order delivered on 17/02/2023

Coram:

Dr. Madan B. Gosavi, Hon'ble Member(J)
Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondents :

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

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KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

DR. MADAN B. GOSAVI
MEMBER (JUDICIAL)

A. Bhadauria / Namit

BEFORE THE ADJUDICATING AUTHORITY
THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH

IA/244 (MP)2022
IN
CP(IB)/43(MP)2021

(Application under section 33 of the Insolvency and Bankruptcy Code, 2016)

Through:

Mr. Nishant Agrawal
Resolution Professional of:
M/s Sri Sdev Naturals Resources India Private Limited
Address:
AS-2, P-Plaza, 345, Alok Nagar,
Opposite Maruti Nexa Service,
Near Green Valley Apartments,
Kanadiya Road,
Indore,
Madhya Pradesh- 452016

......Applicant

Versus

M/s Sri Sdev Naturals Resources India Private Limited
Address:
EW- 100, Scheme No. 94, Behind
Medi Nova Center, Bengali Square,
Indore,
Madhya Pradesh- 452001

......Corporate Debtor/Respondent No. 1

Committee of Creditors
Represented by M/s Poonawala Fincorp Limited
Address:
5th Floor, Metro Tower, B-2
PU-4, Scheme No. 54, Vijay Nagar,
Indore,
Madhya Pradesh- 452001

......Respondent No. 2

Mrs. Vidhya Lohar
Suspended Director of the Corporate Debtor

Adress:
EW-100, Scheme No. 94, Behind Medi Nova
Center, Bengali Square,
Indore,
Madhya Pradesh- 452001

……Respondent No. 3

Mr. Shubham Lohar
Suspended Director of the Corporate Debtor
EW-100, Scheme No. 94, Behind Medi Nova
Center, Bengali Square,
Indore,
Madhya Pradesh- 452001

……Respondent No. 4

In the matter of:

(Application under section 10 of the Insolvency and Bankruptcy Code, 2016)

M/s Sri Sdev Natural Resources India Private Limited
……Corporate Debtor

Order Reserved On: 12.01.2023
Order Pronounced On: 17.02.2023

Coram: Dr. Madan B. Gosavi, Member (J)
Kaushalendra Kumar Singh, Member (T)

Appearance:
For the Applicant: Ld. PCA Ms. Ayushi Patidar
For the IRP/RP: Mr. Nishant Agrawal
For the Respondent: None

ORDER

1. This application is filed by Mr. Nishant Agarwal, resolution professional of M/s Sri Sdev Natural Resources India Private Limited (Corporate Debtor) under section 33(2) of the Insolvency and Bankruptcy Code, 2016 (the Code) for initiating the liquidation process of the corporate debtor.

2. The submissions made by the applicant in its application are summarized hereunder:

(i) The corporate applicant filed an application under section 10 of the Code for initiating Corporate Insolvency Resolution Process (CIRP) for M/s Sdev Natural Resources India Private Limited, which was admitted by this Adjudicating Authority vide order dated 05.08.2022. Applicant herein was appointed as the interim resolution professional (IRP) of the corporate debtor. The IRP constituted the COC having two members i.e., M/s Poonawal Fincorp Limited having 38.98% voting rights, and M/s Hero Fincorp Limited having 61.02% voting rights. The COC in its 1st meeting resolved to appoint the IRP as a resolution professional (RP).

(ii) Since the corporate debtor was in trading business and with the complete shutdown of operations, there are no movable/immovable assets in the name of the corporate debtor and under the possession of the resolution professional, except few office equipments i.e. a computer, 2 printers, and a laptop. In such circumstances, it is difficult to resolve the corporate debtor and identify prospective resolution applicants.

(iii) The COC in its 2nd meeting dated 10.10.2022 in order to avoid unnecessary delay in the process and in light of the right vested to them under section 33(2) of the Code decided with 100% votes for liquidation of the corporate debtor.

(iv) The COC in the said meeting, in accordance with Regulation 39B and 39D of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016, resolved with 100% votes liquidation cost of Rs 4,62,000/- including liquidators fee of Rs 2,50,000/- for the entire liquidation process. Further, in case of a shortfall in meeting the liquidation cost the same will be borne by the COC members. The COC also resolved to appoint the applicant herein as a liquidator. The proposed liquidator has provided his written consent and the same is placed on record.

3. We heard the learned resolution professional and perused the relevant material available on record. It is noted that the corporate debtor was admitted into CIRP vide order dated 05.08.2022. No Form-G was published by the applicant. Further, the COC in its 2nd meeting dated 10.10.2022 has passed a resolution to the effect of liquidation cost and proposed to pay Rs 4,62,000/- as liquidation cost. The shortfall, if any, in meeting out liquidation cost would be borne by COC members. Further, resolutions in accordance with Regulation 39B and 39D are also passed in the said meeting. As such the application deserved to be allowed.

We proceed to pass the following order:

ORDER

I. The corporate debtor M/s Sdev Natural Resources India Private Limited shall be put into liquidation in terms of the provisions of section 33(2) of the Code r.w. Regulations made thereunder which shall be effective from the date of this order. Accordingly, we allow IA/244(MP)2022.

II. The moratorium declared under section 14 of the Code shall cease to have effect from the date of the order of the liquidation.

III. As per section 34(1) of the Code, Mr. Nishant Agrawal having registration no. IBBI/IPA-001/IP-P02100/2020-21/13283 is hereby appointed as a liquidator of the corporate debtor, M/s Sdev Natural Resources India Private Limited, who shall complete the liquidation process as per the provisions of the Code r.w. Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

IV. All the powers of the board of directors, key managerial persons, and the partners of the corporate debtor, as the case may be, hereafter cease to exist. All these powers henceforth vest with the liquidator.

V. The personnel of the corporate debtor are directed to extend all cooperation to the liquidator as required by him in managing the liquidation process of the corporate debtor.

VI. The liquidator will charge fees for the conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and the same shall be paid to the liquidator from the proceeds of the liquidation estate under section 53 of the Code.

VII. 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 continued during the liquidation process by the liquidator.

VIII. The registry is directed to communicate this order to the concerned Registrar of Companies, the registered office of the corporate debtor, and the liquidator by speed-post within one week from the date of this order, after completion of necessary formalities.

IX. Accordingly, IA/244(MP)2022 in CP(IB)/43(MP)2021 is disposed of.

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Kaushalendra Kumar Singh
Member (Technical)

Dr. Madan B. Gosavi
Member (Judicial)

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