IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

IA/975/2019
IN
(IB)/59(PB)/2018

Application filed under section 33(1) & 33(2) of the IBC, 2016

In the matter of

Union Bank of India ---*Financial Creditor*

Vs.

Radius Infratel Private Limited ---*Corporate Debtor*

And

In the matter of

Arvind Garg
---*Applicant/Resolution Professional for Radius Infratel Private Limited*

---Applicant/Resolution Professional

Order delivered on: 31.05.2021

<u>CORAM</u>

B.S.V. PRAKASH KUMAR,
HON'BLE ACTG. PRESIDENT

HEMANT KUMAR SARANGI,
HON'BLE MEMBER (TECHNICAL)

For the Applicant: Ms. Heerika Shukla, Authorised Representative

<u>ORDER</u>

Order Pronounced on: 31.05.2021

It is an IA filed u/s 33(1) & 33(2) of the Insolvency & Bankruptcy Code, 2016 ("**the Code**") by the Resolution Professional

(RP) seeking liquidation order based on the resolution passed by the CoC in its 10th meeting held on 03.05.2019 with a requisite majority as contemplated under I&B Code, 2016.

2. On perusal of this application, it appears that this (IB)-59(PB)/2018 was admitted on 23.07.2018 and this Applicant was appointed as IRP and he invited claims from the creditors and constituted CoC only of one Financial Creditor i.e. Union Bank Of India. Subsequently, IRP was appointed as RP in the First Meeting of CoC held on 16.08.2018, and RP performed all the duties as provided in the Code.

3. It is further submitted that during the CIR Process various options, including One Time Settlement, have been explored to bring the ongoing CIR Process to a conclusion beneficial to all stakeholder, however, the offer was rejected by the financial Creditor, hence, the first invitation for EoI was issued. In response to it, only one resolution plan was received from the shortlisted resolution applicants but the same was found unsatisfactory by the Committee of Creditors as the resolution plan was not accompanied with

required earnest money deposit. The RP issued the second invitation of EoI on the instruction of CoC, only one EoI was received from the same resolution applicant. The negotiation took place between the CoC and resolution applicant in order to find better terms before arriving at a decision to either accept or reject the resolution plan. The resolution applicant revised the resolution plan from time to time subsequent to negotiations, however, CoC did not find terms of resolution plan acceptable and voted unanimously for rejection of the resolution plan and voted in favour of liquidation of corporate debtor in the same meeting of CoC i.e. tenth CoC meeting held on 03.05.2019 and relevant extract of the CoC meeting is as follows:-

> *"The Committee of Creditors of Corporate Debtor Radius Infratel Private Limited hereby resolves that as the solitary resolution plan received from resolution applicant of corporate debtor Radius Infratel Private Limited has been rejected by Committee of Creditors, the resolution professional be and is hereby is directed to file an application before Hon'ble National Company Law Tribunal, praying for liquidation of corporate Debtor.*
>
> *Only member of CoC, Union Bank of India in favour of the resolution. There being only one CoC member, there was no vote against and no CoC member abstained.*

Hence, the resolution was passed by 100% voting in favour of the resolution. Thus CoC decided to file a report before Hon'ble National Company Law Tribunal, praying for liquidation of Corporate Debtor."

4. Looking at the application and averments thereof, we are of the considered opinion that this is a fit case for liquidation, therefore, we hereby order for liquidation of the company with directions as follows:

a. The Mr. Arvind Garg, holding Registration No. IBBI/IPA-003/IP-N00029/2017-2018/10189, having email-arvindgarg31@gmail.com is appointed as the Liquidator in terms of Section 34(1) of the Code;
b. Registry is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;
c. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
d. This order shall be 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 Insolvency and Bankruptcy Code, 2016;
e. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant rules and regulations.

f. The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.

g. The liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.

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 financial creditors, corporate debtor and the Liquidator for taking necessary steps;

j. IA-975/2019 filed in IB-59(PB)/2018 is disposed of in terms of the aforesaid terms.

SD/-

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

SD/-

(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)

31.05.2021
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