

IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, CHENNAI

MA/1147/2019 & MA/547/2018

IN

CP/129/IB/CB/2018

*Applications filed under section 60(5) r/w 12(3) & 33 of the IBC, 2016*

In the matter of M/s. Nathella Sampath Jewelry Private Limited

Mr. Ram Ratan Kanoongo, RP

For M/s. Nathella Sampath Jewelry Private Limited

---Applicant/Resolution Professional

Order delivered on: 03.01.2020

CORAM:

B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Applicant : Mrs. Khushboo Shah Rajani, Advocate

ORDER

Per: B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

Order Pronounced on: 03. 01.2020

It is an MA filed u/s 60(5) r/w Section 12(3) of the Insolvency & Bankruptcy Code, 2016 ("the Code") by the Resolution Professional ("RP") to list the MA/547/2018 which was filed u/s 33 of I&B Code, 2016, to seek liquidation order based on the resolution passed by the CoC in its 5<sup>th</sup> meeting held on 19.09.2018 with a requisite majority of 97.90% of the voting share. On the request of the Counsel this Tribunal deems fit that instead of listing MA/547/2018, the same may be heard along with the MA/1147/2019.





3. The Counsel appeared on behalf of this Applicant/RP stated that the CoC, in their 5<sup>th</sup> meeting held on 19.09.2018, opined that it has become difficult to find out any Resolution Applicant evincing interest in submitting Resolution Plan, despite two time EoI was issued. Therefore, the CoC passed a resolution to seek liquidation



order with a requisite majority of 97.90% of the voting share, for same, RP filed an application before this Bench. However, on account of pending proceedings before the PMLA Authorities, the said MA/547/2018 was adjourned without a date being given, with liberty to the applicant to approach this Bench as and when they receive some directions with regard to appeal pending before the Hon'ble Appellate Tribunal for PMLA.

4. The Applicant stated that the above mentioned proceedings before the Hon'ble Appellate Tribunal of PMLA are still pending, and at present the CIRP is also at standstill owing to multiple proceedings pending. The Applicant has further stated that deadline of 330 days has already expired on 14.11.2019. In the backdrop of these facilities, we are of the view that ordering liquidation soon after completion of CIRP period will not have any bearing on PMLA proceedings, because action against erring management will not be affected by this order.

5. Looking at the application and averments thereof, we are constrained to pass orders to liquidate the Corporate Debtor u/s





33(2) of the Code. In the absence of written consent u/s 33(1) by the RP, this Bench u/s 34(5) of the Code hereby suggest The Insolvency and Bankruptcy Board of India ("IBBI") to propose the name of another Insolvency Professional to be appointed as Liquidator and till such time, the Applicant/RP namely, Mr. Ram Ratan Kanoongo, shall act as the Liquidator.

6. This Bench is 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) This Bench hereby orders the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing a public notice stating that the Corporate Debtor is in liquidation with a direction to the liquidator to send this order to ROC with which this company has been registered.

b) The Resolution professional viz Mr. Ram Ratan Kanoongo is hereby appointed to act as Liquidator until the other person is appointed as the Liquidator, for the purpose of liquidation of the corporate debtor, therefore all powers of the board of



directors, Key managerial personnel and partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be hereby vested in the liquidator. The Personnel of the Corporate Debtor are directed to extend all co-operations to the liquidator as may be required in managing the affairs of the Corporate Debtor. The Insolvency Professional appointed as liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified under regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under section 53 of the Code.

- c) Since this liquidation order has been passed, no suit or other legal proceedings shall be instituted by or against the Corporate debtor without prior approval of this Adjudicating Authority save and except as mentioned in sub-section 6 of section 33 of the Code.





d) This liquidation order shall be deemed to be notice of discharge to the officers, employees and workmen of the Corporate Debtor except to extent of the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.

e) The liquidator is directed to carry the functions of the Liquidator as envisaged under the Insolvency and Bankruptcy Code, 2016 and also Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

7. The Registry is hereby directed to immediately communicate this order to the Liquidator, the Corporate Debtor, the IBBI & the concerned ROC by way of e-mail.

8. Accordingly, MA/1147/2019 & MA/547/2019 filed in CP/129/IB/2018 is hereby disposed of.

-Sd-

(S. VIJAYARAGHAVAN)  
Member (Technical),

-Sd-

(B. S.V. PRAKASH KUMAR)  
Member (Judicial)



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Certified to be True Copy

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