

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

IA (IB) No. 886/KB/2021

in

CP (IB) No. 155/KB/2019

Under section 33(1)(a) of Insolvency & Bankruptcy Code, 2016

In the matter of

Punjab National Bank (Erstwhile known as United Bank of India)

... Financial Creditor

Versus

Jotesriram Himghar Private Limited

... Corporate Debtor

-And-

In the matter of:

Santanu Bhattacharjee,

Resolution Professional of Jotesriram Himghar Private Limited

... Applicant

Order reserved on: 02.11.2021

Order pronounced on: 15.11.2021

Coram:

Shri Rajasekhar V.K., Member (Judicial)

Shri Balraj Joshi, Member (Technical)

Appearances (through video conferencing):

For the Applicant:

Mr. Saurav Jain, Advocate

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In Re Liquidation of Jotesriram Himghar Pvt Ltd.
IA (IB) No. 886/KB/2021 in CP (IB) No. 155/KB/2019

Mr. Santanu Bhattacharjee, Resolution Professional

ORDER

Per: Balraj Joshi, Member (Technical)

1. This court was convened via video conferencing.
2. This is an application filed by the Resolution Professional with the approval of the Committee of Creditors (CoC) seeking liquidation of the Corporate Debtor, viz., Jotesriram Himghar Private Limited [CIN: U014303WB2013PTC195017], on the ground that the CIRP period has expired and no resolution plan was received by the Committee of Creditors ('CoC'). The Applicant has sought for the following reliefs:
 - a. *Pass an order directing liquidation of the Corporate Debtor in the manner as laid down in Chapter III of the Code;*
 - b. *Pass an order directing appointment of Mr. Santanu Bhattacharjee to act as Liquidator as provided under section 34(1), and*
 - c. *Pass any other order which this Hon'ble Tribunal may deem fit in the facts and circumstance of the case.*
3. This Adjudicating Authority *vide* its order dated 13.03.2020 on a Petition filed by the Punjab National Bank (Erstwhile United Bank of India) ('financial creditor') under section 7 of the Insolvency and Bankruptcy Code, 2016 ('the Code') directed initiation of the Corporate Insolvency Resolution Process ('CIRP') against the Corporate Debtor and appointed Mr. Shyamal Kumar Bhattacharjee as the Interim Resolution Professional ('IRP').
4. Subsequently, Mr. Shyamal Kumar Bhattacharjee was replaced by Mr. Santanu Bhattacharjee as Resolution Professional by this Adjudicating Authority *vide* its order dated 16.09.2020 on a Petition filed by the

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Punjab National Bank (Erstwhile United Bank of India) ('financial creditor') for replacement of IRP

5. The Applicant submits that in terms of section 15 of the Code, public announcement was made on 18.03.2020, in Financial Express (English) and Aajkal (Kolkata Edition) (Bengali) newspapers, fixing 26.03.2020 as the last date for submitting the claim. The public announcement was uploaded on the website of IBBI.
6. The Committee of Creditors (CoC) was duly constituted with 1 financial creditor and the Report certifying the constitution of the CoC was filed with the Adjudicating Authority on 30.03.2020.
7. The first meeting of the CoC was held on 24.06.2020. The Applicant states that the publication for invitation of EoIs in Form G was done on 11.12.2020 in Financial Express (English) and Amar Bangla (Bengali) newspapers. A revised Form G was published on 18.06.2021. The last date of submission of EOI was 03.07.2021.
8. It is submitted that the RP received two EOI's and issued a list of prospective Resolution Applicants on 05.07.2021 and a final list of prospective Resolution Applicants was issued on 15.07.2021. No Resolution Plan was received from any Prospective Resolution Applicant.
9. It is submitted that the Committee of Creditors, in the 12th COC meeting held on 24th September 2021, approved the decision to liquidate the Corporate Debtor and appointment of Mr. Santanu Bhattacharjee as the liquidator with 100% vote.
10. Hence, the RP has filed an application under section 33(1) of the Code, before the Adjudicating Authority for liquidation of the Corporate Debtor on expiry of the CIRP period.

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11. The Applicant/Resolution Professional, Mr Santanu Bhattacharjee [Reg. No. IBBI/IPA-001/IP-P01141/2018-2019/11868], has agreed to act as liquidator to carry on the process of liquidation and given his consent to act as Liquidator, in terms of section 34(1) of the Code and has a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member.
12. We have considered the submission made by the learned Counsel on behalf of the Applicant/RP and perused the record.
13. Section 33(1) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Debtor where before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process the Adjudicating Authority does not receive a resolution plan under subsection (6) of section 30.
14. This Bench, therefore, hereby orders as follows: -
 - a. Prayers as sought for in I.A. (IB) No. 886/KB/2021 filed by Mr. Mr. Santanu Bhattacharjee, RP of Jotesriram Himghar Private Limited, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(1) of the Code;
 - b. **Mr Santanu Bhattacharjee [Reg. No. IBBI/IPA-001/IP-P01141/2018-2019/11868]**, is hereby appointed as Liquidator is hereby appointed as Liquidator as provided under section 34(1) of the Code ,
 - c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

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- d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, i.e., Financial Express (English) and Aajkal (Bengali) (Kolkata edition), stating that the Corporate Debtor is in liquidation.
- e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
- f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- g. On initiation of the liquidation process but subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.
- h. In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a 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.
- i. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, Kolkata, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy

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of this Order to the Registrar of Companies, West Bengal,
Kolkata.

15. The application bearing **IA (IB) No. 886/KB/2021** shall stand disposed of in accordance with the above directions.
16. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
17. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
18. List the main **CP (IB) No. 155/KB/2019** for reporting progress on **17/01/2022**.

[Balraj Joshi]

Member [Technical]

[Rajasekhar V.K.]

Member [Judicial]

15.11.2021

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