

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-III**

**M.A. No. 777 of 2019
In
C.P. No. 1976/IB/2018**

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

In the matter of
Shanaya Fashions
... Operational Creditor

V/s.
Worldstar Fabrics LLP
... Corporate Debtor

I.A. No. 777/2019

Mr. Vijay Pitambar Lulla
... Applicant/
Resolution Professional

Order delivered on 17.03.2021

Coram:

Hon'ble Shri H. V. Subba Rao, Member (Judicial)
Hon'ble Shri Shyam Babu Gautam, Member (Technical)

Appearance (through video conferencing):

For the Applicant: Mrs. Raina Birla, Advocate

Per Shri Shyam Babu Gautam, Member (Technical)

ORDER

1. It is an application filed by the Resolution professional seeking liquidation of the Corporate Debtor namely (M/s. Worldstar Fabrics LLP) on the ground that no resolution plan has been received by him, hence this application under Section 33 (1) of the Insolvency and Bankruptcy Code, 2016, praying following reliefs:
 - a. *To pass an order under Section 33(2) of the Code for liquidation of the Corporate Debtor;*
 - b. *To appoint the Mr. Vijay Pitambar Lulla as the Liquidator of the Corporate Debtor;*

2. The Adjudicating Authority vide its order dated 28.08.2018 on a Petition filed by the Operational Creditor under Section 9 of the Code directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor namely M/s. Worldstar Fabric LLP, wherein Mr. Shyam Sundar Kasera, was appointed as Interim Resolution Professional (IRP). Thereafter, in the 2nd Committee of Creditors (CoC) meeting held on 08.10.2018, Mr. Vijay Pitamber Lulla, was resolved to be appointed as Resolution Professional (RP) and the same was approved by this Bench on 24.01.2019.
3. The RP submits that the public announcement was made on 04.09.2018, one in "Free press Journal" in English and "Navshakti" in Marathi, fixing 15.09.2018 as the last date for submitting the claims.
4. It is further submitted that an advertisement, inviting Expression of Interest (EOI) in Form G was published on 11.11.2018 and 26.11.2018 being the last date for the receiving expression of interest, but no one came forward after learning that the Corporate Debtor is facing enquiries for GST fraud.
5. The RP appointed two registered valuers as required under Regulation 27 of the IBBI (IRP for Corporate Persons) Regulations, 2016 and the Information Memorandum was prepared as provided under Regulation 36(1) of the said regulation.
6. The CoC in the 7th CoC meeting held on 16.02.2019, it was informed in the meeting that there are no chance of revival of the Corporate debtor Company as no EOI and no Resolution Plan was received. The following Resolution was passed;
"Resolved that, since there is no EOI received from any of the prospective Resolution Applicant and also pursuant to the Forensic Audit report there is no scope of getting any resolution applicant, the CoC members have therefore decided to take Corporate Debtor into Liquidation and therefore the RP Mr. Vijay P. Lulla is hereby approved for being appointed as liquidator and necessary application be filed with the Adjudicating Authority."

7. Hence, the CoC in its 7th meeting held on 16.02.2019, unanimously with 100% voting rights passed a resolution for liquidating the company. Accordingly, the Resolution Professional filed this application for liquidation of the Company as provided u/s. 33 of the Insolvency & Bankruptcy Code, 2016 (Code).
8. The Applicant/ Resolution Professional Mr. Vijay Pitambar Lulla, has agreed to act as liquidator and given consent to carry on the process of liquidation.
9. Upon hearing the submissions of the Applicant and on reading the Application and the documents enclosed therein it is found, the RP has complied with the procedure laid down under the Code; Regulations made thereunder. The reasons assigned in the petition with regards to taking the decision of liquidation of Corporate Debtor by CoC appears to be genuine and convincing since no resolution plan for revival of Corporate Debtor is received. On verification, we are of the considered view that this is a fit case to pass liquidation order under sub-section 1 of section 33 of the Code for liquidation in the absence of any resolution plan. Hence ordered;

ORDER

- a. The Interlocutory Application No.777 of 2019 is hereby allowed.
- b. **Mr. Vijay Pitambar Lulla**, Registration No. IBBI/IPA-001/IP-P00323/2017-2018/10593, herein is hereby appointed as Liquidator as provided under Section 34(1) of the Code.
- c. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
- d. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

- e. The Liquidator appointed under section 34(1) of the Code. Will have all powers of the board of directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the liquidator.
- f. That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.
- g. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.
- h. That the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- i. That on having liquidation process initiated, 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.
- j. 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.
- k. The M. A. No.777 of 2019 is hereby allowed and disposed of.

Sd/-
SHYAM BABU GAUTAM
MEMBER (TECHNICAL)

Sd/-
H. V. SUBBA RAO
MEMBER (JUDICIAL)