

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH, BENGALURU**

I.A. No.318 of 2020 in  
C.P. (IB) No.415/BB/2019  
U/s 33(2) of the IBC, 2016  
R/w Rule 11 of NCLT Rules, 2016

**Mr. Madhugiri Venkatarayappa Sudarshan**

*Resolution Professional of  
M/s. Inmark Retail Pvt. Ltd  
No.984/13, 8<sup>th</sup> Main,  
Girinagar II Phase,  
Bangalore – 560 085.*

- Applicant/Resolution Professional

**Order Pronounced on: 21<sup>st</sup> September, 2020**

**Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)  
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

**Parties/Counsels Present:**

For the Applicant/RP : Mr. Hemanth R. Rao

**ORDER**

***Per: Ashutosh Chandra, Member (Technical)***

1. I.A. No.318 of 2020 in C.P. (IB) No.415/BB/2019 is filed by Mr. Madhugiri Venkatarayappa Sudarshan, Resolution Professional of M/s. Inmark Retail Private Limited (hereinafter referred to as 'Applicant/Resolution Professional') under Section 33(2) of the IBC, 2016 R/w Rule 11 of NCLT Rules, 2016, by inter alia seeking to order liquidation of Corporate Debtor i.e. M/s. Inmark Retail Private Limited in terms of the I&B Code etc.
2. Brief facts of the case, as mentioned in the Application, which are relevant to the issue in question, are as follows:

(1) The main Company Petition bearing CP (IB) No.415/BB/2019 filed by M/s. Trend Arrest Clothing Pvt. Ltd. U/s 9 of the IBC, 2016, R/w Rule 6 of the I&B (AAA) Rules, 2016, was admitted by the Adjudicating Authority, vide order dated 02<sup>nd</sup> June, 2020, by initiating CIRP in respect of the Corporate Debtor by appointing Mr. Varun V.S. bearing Registration No.IBBI/IPA-002/



IP-N00290/2017-2018/10848 as the IRP, imposing moratorium etc. Subsequently, the Adjudicating Authority, vide its Order dated 29<sup>th</sup> July, 2020 passed in I.A. No.253 of 2020, approved the change of existing IRP and appointing Mr. M.V. Sudarshan as the RP in place of Mr. Varun V.S.

- (2) It is stated that Resolution Professional has initiated action for finalization of books of accounts for the FY 2018-19, 2019-20 and provincial financials till the CIRP commencement date. Further, RP has visited the Corporate Debtor's office and warehouse in Bangalore to assess the inventory of the Company and initiated steps to recover fabrics with subcontractors. As per audited financial statement for FY 2018-19, the Corporate Debtor has no assets like land, building or plant/machinery. On verification, the RP has found that the Corporate Debtor has only assets worth Rs.10.08 lakhs as on date.
- (3) It is also stated that the assets and liabilities, the realisable estimated value is Rs.59.59 lakhs only. However, the monthly CIRP costs itself is more than said sum. Hence, in such circumstances and also the ongoing COVID-19 pandemic, it would be difficult to find any resolution applicants. All the details with respect to the financial status of the Corporate Debtor was brought to the notice of the CoC in the 2<sup>nd</sup> CoC meeting dated 10.08.2020. After considering the same, the CoC, in its commercial wisdom has decided to liquidate the Corporate Debtor.
- (4) In the 02<sup>nd</sup> meeting of the Committee of Creditors held on 10.08.2020, CoC has inter alia passed the following Resolution:

***"RESOLVED THAT** pursuant section 33 and other applicable provisions of the IBC Code, 2016 and the Rules and Regulations made there under, the Committee of Creditors be and is hereby approve the liquidation of the Corporate Debtor M/s. Inmark Retail Private Limited with immediate effect".*

***RESOLVED FURTHER THAT** the Committee of Creditors be and is hereby approve the appointment of Mr. M V Sudarshan, Insolvency professional having IBBI Registration No.IBBI/IPA-002/IP-N00561/2017-2018/11707 as Liquidator of the Corporate Debtor M/s. Inmark Retail Private Limited.*



3. Heard Mr. Hemanth R. Rao, learned Counsel for the Applicant/RP through Video Conference. We have carefully perused the pleadings of the Party and the extant provisions of the Code and the Rules made thereunder.
4. The Applicant has filed a copy of the Minutes of the 2<sup>nd</sup> Meeting of the Committee of Creditors held on 10.08.2020. The CoC discussed, inter alia the options available with the CoC, in respect of the business of the Corporate Debtor, whether to continue with the CIRP for full 180 days or to go for liquidation. In its commercial wisdom the CoC found that this business cannot be revived, and value of the business has eroded and hence it is very unlikely to get a resolution plan for the revival of the business. In this backdrop, the CoC passed the resolution for liquidation, as mentioned supra.
5. With the IA, the Applicant has filed various details which show that the Corporate Debtor is saddled with several cases in different courts, has fixed assets with book value of Rs 10.08 lakh, Long term loans and Advances of Rs 473.16 Lakh, has a Gross Loss of Rs 16.84 lakh for June and July 2020, approved CIRP expenses of 53.22 lakh for the months of June to August 2020 out of total expenses of Rs 100.91 lakh and a negative bank balance of Rs 49.59 lakh. The estimated realizable value of the Company's assets is stated to be only Rs.59.59 lakhs. Hence the liabilities are far more than the assets of the Corporate Debtor.
6. In view of the aforesaid circumstances, and also the ongoing COVID-19 pandemic, the CoC finds it difficult to revive the business or to find any resolution applicants. Hence the CoC found that there was no other alternative for the CoC except to seek to order to liquidate the Corporate Debtor as per the provisions of the Code. The Resolution to initiate liquidation was also approved by the CoC with requisite majority as per law and the instant Application is filed strictly in accordance with law.
7. The CoC has also passed a Resolution and proposed Mr. M.V. Sudarshan as a Liquidator, for liquidating the Corporate Debtor. He has filed his written consent to act as Liquidator of the Corporate Debtor i.e., M/s. Inmark Retail Private Limited vide Affidavit dated 10.08.2020 U/s 34 of the IBC, 2016, by inter alia declaring that there are no disciplinary proceedings initiated by the Board or the Insolvency Professional Agency; he is eligible to be appointed as Resolution



Professional of the Corporate Debtor under Regulation 3 and other applicable provisions of the Code and Regulations etc. Hence, he is provisionally eligible to be appointed as Liquidator. Therefore, it is a fit case to initiate Liquidation in respect of the Corporate Debtor herein.

8. In view of the facts and circumstances of the case, the Adjudicating Authority, by exercising its powers conferred under Section 33(1), 33(2) & 34(1) of the IBC, 2016, disposes of I.A. No.318 of 2020 in C.P. (IB) No.415/BB/2019 with the following directions:

- (a) It is hereby ordered that M/s. Inmark Retail Private Limited, Corporate Debtor, be liquidated in the manner as laid down in Chapter III of Part II of the Code, R/w IBBI (Liquidation process) Regulations, 2016.
- (b) Mr. M.V. Sudarshan is hereby appointed as a Liquidator, subject to the terms and conditions to be agreed upon by the parties in the light of extant provisions of the IBBI. He is directed to follow the due process of law as per above Chapter and Regulations and to issue public announcement immediately by stating that the Corporate Debtor is in Liquidation.
- (c) The Registry is directed to communicate this Order to the Registrar of Companies, Karnataka for information and necessary action and also to the Liquidator.
- (d) The Liquidator is directed to strictly adhere to the extant provisions of the Code and the Rules made thereunder framed by the IBBI from time to time and also directed to take expeditious steps to complete the liquidation process in the light of various orders.
- (e) The Liquidator is further directed to make best efforts to revive the Corporate Debtor during Liquidation process, as a going concern.
- (f) Post the case for report of Liquidator on 09.10.2020.

**ASHUTOSH CHANDRA**  
**MEMBER, TECHNICAL**

**RAJESWARA RAO VITTANALA**  
**MEMBER, JUDICIAL**

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