

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI**

CA/392/C-III/2019 in
CP/IB/709/ND/2018 filed under
Section 33(2) of the Insolvency and
Bankruptcy Code, 2016

In the matter of Vibha Overseas Exim Private Limited

Mr. Vishnu Dutt,
Resolution Professional

... Applicant

Order delivered on 17 of October, 2019

CORAM :

SHRI. CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)
SHRI. K.K.VOHRA, MEMBER (TECHNICAL)

For Resolution Professional : Mr. Akash Srivastava, Mr. Saurabh Gauba (Advocates)

ORDER

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. This relates to CA-392/C-III/ND/2019 filed in IB/709/ND/2018 by Mr. Vishnu Dutt (hereinafter referred to as 'Resolution Professional') under Section 33(2) of the Insolvency and Bankruptcy Code, 2016. The prayer made in the Application is to pass an order of liquidation pertaining

the Corporate Debtor viz., M/s. Vibha Overseas Exim Private Limited.

2. Originally IB/709/ND/2018 filed under Section 10 of the I&B Code, 2016 by the Corporate Debtor was admitted by this Authority vide Order dated 05.10.2018, the CIR Process was initiated against the Corporate Debtor and the Applicant viz., Mr. Vishnu Dutt was appointed as Interim Resolution Professional (IRP).

3. It is averred that pursuant to the Order of this Authority dated 05.12.2018 the IRP had taken over the management of the Corporate Debtor and had issued the Newspaper Publication dated 08.12.2018 in two edition one in English and another in vernacular as per Regulation 6 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016, inviting the claims from the creditors. After verification of the claims received, the IRP constituted the Committee of Creditors (CoC). In the 1st CoC Meeting held on

14.01.2019, the Applicant viz., Mr. Vishnu Dutt was appointed as Resolution Professional.

4. Resolution Professional had prepared Information memorandum under Section 29 of the Code, 2016 read with Regulation 36 of the IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016 and the same was placed before the COC in its meeting held on 18th March, 2019. In the 2nd COC meeting it was resolved as under-

Resolved that as per the decision of COC the Corporate Debtor "Vibha Overseas Exim Private Limited" be liquidated in terms of provisions of IBC/ The Company Law 2013. The liquidation is subject to the approval of Adjudicating Authority. Further, the Resolution Professional Liquidator be authorised to take all necessary action/steps including moving an application under Section 33(2) to give effect to this decision or any other matter incidental thereto.

5. It is noted that the Resolution Professional has appointed two valuer viz., M/s R.K. Associates Valuers & techno

Engineering Consultant Private Limited and M/s Crest Capital Group Private Limited for working out the Valuation/Liquidation value of the assets of the Corporate Debtor and the same was ratified by the COC in its meeting held on 18th March, 2019. The Valuation reports of both the valuers appointed by the RP were taken on record by the members of COC in its third meeting held on 23rd May, 2019.

6. The sole member of COC of the Corporate debtor viz, M/s Union Bank of India, holding 100% voting right, voted in favour of the Resolution passed for Liquidation of the Corporate Debtor viz, Vibha Overseas Exim Private Limited.

7. Since no Resolution Plan is received by this Authority under Sub-section (6) of Section 30 of the I&B Code, 2016, before the expiry of the Corporate Insolvency Resolution Process period of 180 days, the Corporate Debtor has to be ordered for Liquidation.

10. It is noted that IRP is not willing to be appointed as the Official liquidator and thus COC left at this authority to appoint the Official Liquidator.

ORDER

9. In view of the facts and circumstances recorded by Resolution Professional in CA/392/C-III/2019 filed in CP/IB/709/nd/2018 and in exercise of powers conferred under Sub-Clauses (i) (ii) and (iii) of Clause (a) of Sub-Section (1) of Section 33 of the I&B Code, 2016, this Authority proceeds to pass Liquidation Order as follows:-

- I. This Authority hereby orders for liquidation of the Corporate Debtor viz., M/s. Vibha Overseas Exim Private Limited which shall be conducted in the manner as laid down in Chapter III of part II of the I&B Code, 2016;
- II. This Authority hereby appoints Mr. Rajinder Singh Sidhu (IBBI/IPA-001/IP-P00987/2017-

18/11772) (rssfca@gmail.com) (Ph. No. 9811299566) as Company Liquidator who shall issue a public announcement stating therein that the Corporate Debtor is in liquidation;

- III. The moratorium declared under Section 14 of the I&B Code, 2016, shall cease to have effect from the date of the order of liquidation;
- IV. Subject to Section 52 of the I&B Code, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.
- V. This Authority makes it clear that Para (IV) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the

Central Government in consultation with any financial sector regulator.

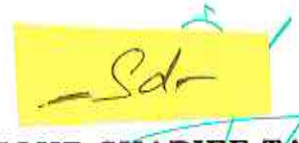
- VI. This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- VII. All the powers of the Board of Directors, Key Managerial Personnel and the Partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the Company Liquidator viz., Mr. Rajinder Singh Sidhu. In addition to this, the Company Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the I&B Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

- VIII. The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.
- IX. The Company Liquidator shall be entitled to charge such fees for the conduct of the liquidation proceedings and in such a proportion to the value of the liquidation estate assets as specified under Regulation 4 (2) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- X. The Registry is directed to communicate this order with immediate effect to the concerned Registrar of Companies, RD, OL, Registered Office of the Corporate Debtor and Company Liquidator viz. Mr. Rajinder Singh Sidhu, for information and compliance.

10. In terms of the above, CA/392/C-III/ND/2019 filed in CP/IB/709/ND/2018 by the Resolution Professional under Section 33(2) of the I&B Code, 2016, for initiation of the Liquidation Proceedings against the Corporate Debtor viz., M/s. Vibha Overseas Exim Private Limited is **allowed**.



(K.K. VOHRA)
MEMBER (TECHNICAL)



(CH. MOHD SHARIEF TARIQ)
MEMBER (JUDICIAL)

U.D.Mehta/D