

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

IA/329(KB)2021
&
IA/309(KB)2021
In
CP(IB)/371(KB)2019

*Under section 60(5) of The Insolvency and Bankruptcy Code, 2016
read with Regulation 40C of the IBBI (Insolvency Resolution Process
for Corporate Persons) Regulations, 2016*

And

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

In the matter of:

Union Bank of India

....Financial Creditor

Versus

RAA International Limited
(CIN : U72900WB2000PLC091121)

....Corporate Debtor

And

In the matter of:

Shri Sachin Gopal Jathar, Interim Resolution Professional
of RAA International Limited

....Applicant

Order Reserved on: 08/07/2021

Order Pronounced on: 06/08/2021

Coram:

Shri Rajasekhar V.K.

: Member (Judicial)

Shri Harish Chander Suri

: Member (Technical)

Appearances (through video conferencing)

For the applicant : Mr. Arun Kumar Gupta, PCA
Mr. Sachin Gopal Jathar, IRP

ORDER

Per: Rajasekhar V.K., Member (Judicial)

1. This Court convened via video conference on 08/07/2021. For convenience both the applications are taken together for consideration.

IA/329(KB)2021

2. This is an application filed by the RP praying for exclusion of 317 days from 24/03/2020 to 03/02/2021, i.e., the date the CoC in their commercial wisdom has decided to liquidate the Corporate Debtor u/s. 33 of the Code as well as on account of lockdown due to COVID-19 pandemic.
3. Ld. Authorised Representative appearing on behalf of the RP submits that the Corporate Debtor was admitted under CIRP *vide* order dated 08/11/2019. Public announcement was made on 25/11/2019 in “*Financial Express*” (English) and “*Ekdin*” (Bengali) and the Committee of Creditors (“CoC”) was formed in compliance of the provisions of section 18(1)(c) of the Code comprising of Union Bank of India and Punjab National Bank (erstwhile Oriental Bank of Commerce).
4. In compliance of regulation 36(1) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, Information Memorandum (“IM”) based on the limited information available in the public domain was prepared as the suspended member of the Board of Directors of the Corporate Debtor never provided any books of account or other documents/record as they are not traceable.

Further, due to lack of substantial information, the valuations were also stalled. As such due to lack of requisite information, CoC has decided not to publish EoI. Hence, publication of Form – G was not made.

5. At the 8th CoC meeting held on 03/02/2021, the members of CoC considering bleak possibility for a resolution, in their commercial wisdom decided to liquidate the Corporate Debtor u/s. 33 of the Code. However, resolution for liquidation of the Corporate Debtor was put for voting, but the members of CoC preferred not to vote, even after deciding in favour of liquidation of the Corporate Debtor.
6. Heard the Ld. Authorised Representative for the RP and perused the application and the documents attached therewith. We are satisfied that the prayer made in the IA should be allowed. Therefore, the 317 period from 24/03/2020 to 03/02/2021 shall stand excluded from the CIRP period; thereby the present CIRP period came to an end on 18/03/2021.
7. IA/329(KB)2021 shall stand disposed of accordingly.

IA/309(KB)2021

8. This is an application filed by the RP u/s. 33 of the Insolvency and Bankruptcy Code, 2016 to liquidate the Corporate Debtor on the ground of non-receipt of any resolution plan in view of the facts stated above seeking following relief:
 - (a) *An order requiring the Corporate Debtor, viz., RAA International Limited (CIN: U72900WB2000PLC091121) be liquidated in the manner as laid down in Chapter III of the Insolvency and Bankruptcy Code, 2016;*
 - (b) *To direct the CoC to pay the CIRP cost before proceeding with the liquidation and to provide the liquidator appointed with some funds as advance to undertake the liquidation process;*

(c) To appoint a Liquidator for conducting the liquidation of the Corporate Debtor under the Insolvency and Bankruptcy Code in terms with section 34;

(d) Any other order or directions as this Tribunal may deem fit.

9. We have considered the submission made by the Ld. Authorised Representative for the Resolution Professional, the applicant herein, and perused the record.
10. This is a case where no publication of Form G was made and the extended period of CIRP period has expired on 18/03/2021. Therefore, there is no alternative but to order the liquidation of the Corporate Debtor.
11. This Bench, therefore, hereby orders as follows: -

(i) IA No. 309/KB/2021 filed by Mr. Sachin Gopal Jathar, RP of **RAA International Limited**, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof.

(ii) Mr. Partha Kamal Sen, Insolvency Professional, (Reg. No. IBBI/IPA-002/IP-N00022/2016-17/10049), E-mail ID partha_kamal@yahoo.com, is hereby appointed to act as the Liquidator of the Corporate Debtor in terms of section 34(1) of the Insolvency and Bankruptcy Code, 2016, as provided under section 34(4)(c) of the Code, subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019. He is directed to submit his consent letter accordingly.

(iii) The present RP shall hand over all documents to the Liquidator within one week from today.

(iii) 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.

(iv) Public Notice shall be issued in the same newspapers as was done during the CIRP process, i.e., “*Financial Express*” (English) and “*Ek Din*” (Bengali) stating that the Corporate Debtor is in liquidation.

(v) 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.

(vi) 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.

(vii) 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.

(viii) 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.

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

12. The application bearing **IA No. 309/KB/2020** shall stand disposed of in accordance with the above directions.
13. **CP (IB) No. 371/KB/201** to come up for filing of periodical report on **08/11/2021**.
14. 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.
15. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Harish Chander Suri
Member (Technical)

Rajasekhar V.K.
Member (Judicial)

Signed on this, the 6th day of August, 2021.

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