Single Bench

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

*MA/627/2018 in CP/549/IB/CB/2017 filed by the Resolution Professional viz., Mr. S. Rajagopal under Sections* 33(1)(a), 33(2) and 34 (1) *of the Insolvency and Bankruptcy Code, 2016.*

In the matter of

**M/s. North East Centre for Technology Application and Reach**
... Financial Creditor

**Vs.**

**M/s. Sri Vari Metal Works Private Limited**
... Corporate Debtor

*Order delivered on 5th of December, 2018*

CORAM:

**CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)**

*For Resolution Professional: Mr.B. Dhanaraj, Counsel*

## ORDER

Per: CH.MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. The Miscellaneous Application No.627/2018 has been filed in CP/549/IB/CB/2017 on 13.11.2018 by the Resolution Professional viz., Mr. S. Rajagopal, under Sections 33(1)(a), 33(2) and 34 (1) of the Insolvency and Bankruptcy Code, 2016, (in short 'I&B Code, 2016'). The prayer made by the Resolution

Professional *inter alia* is to seek an order for liquidation of the Corporate Debtor viz., M/s. Sri Vari Metal Works Private Limited.

2. Originally, CP/549/IB/CB/2017 was filed under Section 7 of the I&B Code, 2016, by the Financial Creditor viz., M/s. North East Centre for Technology Application and Reach (NECTAR) against the Corporate Debtor viz., M/s. Sri Vari Metal Works Private Limited, which was admitted by this Authority vide its Order dated 09.01.2018. The CIRP was initiated against the Corporate Debtor and the Applicant viz., Mr. S. Rajagopal, was appointed as Interim Resolution Professional (IRP) in the matter.

3. It is stated that pursuant to the order for initiation of CIRP, the Resolution Professional had issued Newspaper Publication in two editions one in English and another in vernacular calling for the Claims in respect of the Corporate Debtor under Regulation 6 of the Insolvency and Bankruptcy Board

of India (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016.

4. The Resolution Professional has stated that the 1st meeting of Committee of Creditors ( for short, CoC) held on 26.02.2018, consisting of three Financial Creditors with relative voting rights of 8.60%, 81.42% and 9.98%, which is based on the claims received by the IRP aggregating to an amount of Rs.35,12,74,415.29p and has authorised the Interim Resolution Professional to proceed in the matter. In the 2nd meeting of CoC held 07.05.2018, the Resolution Professional has updated the CoC and recorded one more claim received by him.

5. It is averred that the Resolution Professional had made newspaper publication inviting 'Expression of Interest' (EoI) on 31.05.2018 for submission of Resolution Plan in respect of Corporate Debtor to which the Resolution Professional has received a communication dated 11.07.2018 from Grandvalult

Enterprises, Bengaluru expressing interest for submission of the Resolution Plan.

6. In the meantime, the Resolution Professional has received one more financial claim for admission and the same was placed before the 3rd meeting of CoC held on 27.06.2018 and with respect to the proposed Resolution Plan of Grandvalult Enterprises, the members of CoC were not interested in the proposal as the said company was engaged in Real Estate Business. Besides above, as the CIRP period of 180 days was about to be expired on 08.07.2018, the CoC had consented to apply for the extension of further period of 90 days.

7. Accordingly, the Resolution Profession has filed MA/267/2018 seeking for extension of time and this Authority vide Order dated 26.07.2018 had extended the time limit of CIRP for a further period of 90 days with effect from 08.07.2018.

8. The Resolution Professional has stated that the prospective Resolution Applicant did not give any response to the Resolution Professional till 04.10.2018; however, at fag end of the day, he had received an e-mail communication from one Mr. Mahesh Reddy Kummetha, partner of Grandvault Enterprises, with an attachment of Plan, which was not even filed in a prescribed manner along with the Affidavit. As a consequence, the Plan was not presented by the Resolution Professional before the CoC.

9. The CoC in its 4th meeting held on 05.10.2018 has approved for liquidation of the Corporate Debtor with the voting share of 90.61% . The Resolution passed by the CoC in its 4th meeting held on 05.10.2018 is as follows:

> "***Resolved*** *that the Corporate Debtor be liquidated.*
>
> ***Resolved further****, the Resolution Professional is hereby instructed to submit an application in the Hon'ble NCLT, Chennai under Section 33(2)*

*seeking order of liquidation for appointment of the liquidator and such other consequential orders."*

10. The Resolution Professional has filed the instant Miscellaneous Application under Sections 33(1)(a), 33(2) and 34 (1) of the I&B Code, 2016, to seek order for liquidation of the Corporate Debtor.

**ORDER**

11. In view of the facts and circumstances recorded by Resolution Professional in MA/627/2018 filed in CP/549/IB/2017 and in exercise of powers conferred under Sub-Clauses (i) (ii) and (iii) of Clause (b) 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. Sri Vari Metal Works 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. S. Rajagopal 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. S. Rajagopal. 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 fee for the conduct of the liquidation proceedings in such a proportion to the value of the liquidation estate assets as may be specified by the Board.

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. S. Rajagopal, for information and compliance.

12. In terms of the above, MA/627/2018 filed in CP/549/IB/CB/2017 by the Resolution Professional under Section 33(1)(a) of the I&B Code, 2016, for initiation of the Liquidation Proceedings against the Corporate Debtor viz., M/s. Sri Vari Metal Works Private Limited stands **disposed of**.

13. The Order is pronounced in the open Court.

**[CH:MOHD SHARIEF TARIQ]**
MEMBER (JUDICIAL)

ATHISTAMANI