

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

MA/824/2019 in CP/1215/IB/2018
filed under Section 33(2) of the
Insolvency and Bankruptcy Code, 2016

In the matter of M/s. GB Raja Top Weaving Private Limited

Mr. Mahalingam Suresh Kumar,
Resolution Professional

... Applicant

Order delivered on 29th of August, 2019

CORAM :

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)

For Resolution Professional : Mr. A.G.Sathyanarayana, Counsel

ORDER

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. This relates to MA/824/2019 in CP/1215/IB/2018 that has been filed by Mr. Mahalingam Suresh Kumar (hereinafter referred to as 'Resolution Professional') under Section 33(2) of the Insolvency and Bankruptcy Code, 2016.
2. The prayers made by the Resolution Professional in the Application are as follows:-

- a) *That this Hon'ble Adjudicating Authority may be pleased to pass necessary orders for Liquidation of the Corporate Debtor namely M/s. GB Raja Top Weaving Private Limited.*
- b) *That this Hon'ble Adjudicating Authority may be pleased to pass an order that the Mahalingam Suresh Kumar, Resolution Professional (IBBI/IPA-P00110/2017-2018/10217) may be appointed as Liquidator for administering the Liquidation Process of the Corporate Debtor and*
- c) *To pass such other orders which may be deem fit and proper.*

3. Originally, CP/1215/IB/2018 filed under Section 9 of the I&B Code, 2016 by the Operational Creditor viz., M/s. GHCL Limited, against the Corporate Debtor viz., M/s. GB Raja Top Weaving Private Limited, was admitted by this Authority vide Order dated 15.03.2019, the CIR Process was initiated against the Corporate Debtor and one Mr. C.

Ramasubramaniam was appointed as Interim Resolution Professional (IRP).

4. It is averred that pursuant to the Order of this Authority dated 15.03.2019, the IRP had taken over the management of the Corporate Debtor and had issued the Newspaper Publication dated 21.03.2019 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 12.04.2019, the Applicant viz., Mr. Mahalingam Suresh Kumar was appointed as Resolution Professional.

5. In the 2nd CoC Meeting held on 31.05.2019, the CoC has authorised the Resolution Professional to appoint an independent auditor and to proceed with the public announcement of Form G. Besides above, the CoC has

approved the CIR Process expenses including Resolution Professional's fees and also authorised the Resolution Professional to have debit transaction limit upto Rs.50,000/- .

6. Consequently, the Resolution Professional had invited for 'Expression of Interest' (EOI) vide publication dated 01.06.2019 for submission of the Resolution Plans from the prospective Resolution Applicants by mentioning the last date for submitting the Resolution Plans as 15.06.2019, to which the Resolution Professional has not received any formal EOI/Resolution Plan from any of the Resolution Applicants.

7. It is averred that the entity is being non-operational (not a going concern) for more than 2 years. It is stated by the Resolution Professional that the final valuation report in respect of the Plant and Machinery and Land and Building of the Corporate Debtor received from the Valuers was placed before the CoC for deliberations. As there is no

Resolution Plan received and the entity being non-operational for more than 2 years, the CoC has decided to liquidate the Corporate Debtor

8. In the 3rd CoC Meeting held on 29.07.2019, the CoC constituting the sole financial creditor viz., State Bank of India, has unanimously resolved to liquidate the business of the Corporate Debtor. The Resolution passed by the CoC is as follows:

“RESOLVED TO Liquidate the Corporate debtor and appoint the present RP as the Liquidator to conduct the Liquidation of the corporate debtor”

“RESOLVED FURTHER THAT the fees to the Liquidator shall be paid as per Regulation 4(2) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.”

“FURTHER RESOLVED THAT the CoC hereby directs RP to file application before Adjudicating

authority for liquidation of the Corporate debtor immediately.”

9. 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.

ORDER

10. In view of the facts and circumstances recorded by Resolution Professional in MA/824/2019 filed in CP/1215/IB/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. GB Raja Top Weaving 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. Mahalingam Suresh Kumar as Company Liquidator as has been proposed by the CoC, 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. Mahalingam Suresh Kumar. 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. Mahalingam Suresh Kumar,
for information and compliance.

11. In terms of the above, MA/824/2019 filed in
CP/1215/IB/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. GB Raja Top Weaving Private Limited is **allowed**.

12. The Order is pronounced in the open Court.

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ANIL KUMAR B
MEMBER (TECHNICAL)

P.ATHISTAMANI

-SD-

CH. MOHD. SHARIEF TARIQ
MEMBER (JUDICIAL)