IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – II, CHENNAI

IA/1342/IB/2021
in
IBA/785/2020

(filed under Section 33(2) of the Insolvency and Bankruptcy Code, 2016)

In the matter of ***M/s. Cape Engineers Private Limited.***

S. Rajendran
Resolution Professional of
M/s. Cape Engineers Private Limited
71/1, Mc.Nicholas Roa, Hari Krupa
Building, 2nd Floor, Chetpet
Chennai – 600031 *...Applicant /Resolution Professional*

Order Pronounced on 25th April 2022

CORAM :

JUSTICE (Retd.) S. RAMATHILAGAM, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)

For Applicant : R.V. Yajura Devi, Advocate

ORDER

***Per:* JUSTICE (Retd.) S. RAMATHILAGAM, MEMBER (JUDICIAL)**

This is an application filed under Section 33(2)of the Insolvency and Bankruptcy Code 2016 (in short 'IBC, 2016') seeking relief as follows:

> *(i) That this Hon'ble Adjudicating Authority may be pleased to pass an order for Liquidation of the Corporate Debtor namely M/s.Cape Engineers Private Limited.*

(ii) *To pass such further or other orders as may deem fit and proper in the facts and circumstances of the case and thus render justice.*

2. In Section 10 application filed by the Corporate Debtor- M/s. Cape Engineers Private Limited, this Tribunal vide order dated 06.09.2019 initiated the Corporate Insolvency Resolution Process (CIRP) in relation to the Corporate Debtor and appointed one Mr. J. Manivannan as Interim Resolution Professional (IRP).

3. It is averred in the application that in the Second CoC meeting held on 11.11.2019, the CoC resolved to appoint the Applicant as the Resolution Professional (RP) and an applicationwas filed with this Adjudicating Authority which was allowed appointing the Applicant as the Resolution Professional.

4. It is averred in the Application that the Resolution Professional had invited for 'Expression of Interest' ('EoI') in two newspapers one in Business Line (in all India edition) and another on Dinamani (Tamil) on 27.01.2020 as per Section 25(2)(b) of the I&B Code, 2016 for submission of Resolution Plan by the prospective Resolution Applicants mentioning the last date for submitting the Expression of Interest (EOI) as 11.02.2020. It is further averred that the last date for submission of "EoI" by the prospective Resolution Applicants was extended till 24.02.2020 vide publication dated 15.02.2020.

5. It is averred in the Application that pursuant to the calling of EOIs vide Form G, four EOIs were received as on 25.02.2020 and since the 180th day of CIRP was ending on 03.03.2020, in order to provide time for the interested parties to submit their resolution plan and thereafter for the CoC to evaluate the plans, the CoC in its 04th meeting resolved to extend the period of CIRP by 90 days and therefore an application in this regard was filed with this Adjudicating Authority. The Applicant continued the CIRP process although an order of this Adjudicating Authority could not be obtained in view of covid-19 pandemic.

6. It is further submitted that in the meantime the Applicant has received Resolution Plans from 3 parties including promoters of the company. The CoC considered the said plans, deliberated and provided opportunities to improve their respective plan. All the three resolution plans were put for voting in the 08th CoC meeting via E-Voting and were rejected by the CoC.

7. In the 09th CoC meeting held on 02.11.2020, the CoC in its commercial wisdom decided to liquidate the Corporate Debtor via E-Voting dated 21.11.2020 and also recommended the present Resolution Professional to act as the Liquidator of the Corporate

Debtor. The Resolution passed by the CoC in its 09th Meeting held on 02.11.2020 is extracted hereunder:

> *"RESOLVED THAT the Corporate Debtor – Cape Engineers Private Limited be liquidated as per provisions of section 33(2) of the Insolvency and Bankruptcy Code, 2016 as all the three Resolution Plans submitted were rejected as they were not viable and feasible and hence not acceptable"*
>
> *"RESOLVED THAT in the event the Corporate Debtor – Cape Engineers Private Limited is voted for liquidation the CoC hereby recommends sale of the Corporate Debtor as a going concern under clause (e) or sale of the business of the Corporate Debtor as a going concern under clause (f) of Regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016."*
>
> *"RESOLVED THAT Mr. S.Rajendran, the existing Resolution Professional be and is hereby appointed as liquidator of Cape Engineers Private Limited."*

8. It is also seen from the records that the Applicant herein has accorded his written consent to act as the Liquidator of the Corporate Debtor and possesses a valid Authorization for Assignment (AFA).

9. Under these circumstances, **Mrs. Chitra Perinkulam Ragavan, holding Registration Number IBBI/IPA-002/IP-N00720/2019-2020/12558 having email ID: chitraprc@yahoo.com** is hereby appointed as the Liquidator of the Corporate Debtor to carryout the liquidation process subject to the following terms of the directions:

a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended upto date enjoined upon her.

b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.

c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority.

d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and to the Insolvency and Bankruptcy Board of India.

e) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory authorities which govern the Corporate

Debtor, the Liquidator shall also duly intimate about the order of liquidation.

f) The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence.

g) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016.

h) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section – 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.

i) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further report as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.

j) Copy of this order be sent to the financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor, viz., company-in-liquidation.

9. The application IA/1342/IB/2020stands **disposed of** with the aforesaid terms.

-Sd-
B. ANIL KUMAR
MEMBER (TECHNICAL)

-Sd-
Justice (Retd.) S. RAMATHILAGAM
MEMBER (JUDICIAL)

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