

**NATIONAL COMPANY LAW TRIBUNAL
COURT - I, MUMBAI BENCH**

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**IA No. 1083 of 2020
in
CP (IB) No. 990/MB/2019**

**In the matter of an Application under Sec. 33 (2) of IBC 2016
and**

**In the matter of Liquidation of PAN India Utilities Distribution
Company Limited (Corporate Debtor)**

Mr. Hemant Mehta,
Resolution Professional for
PAN India Utilities Distribution Company Limited
29/B4, Panchsheel Building, Nathpai Nagar,
Ghatkopar East, Mumbai – 400 077. ... **Applicant**

Date of Order: 11.08.2020

CORAM:

Hon'ble Janab Mohammed Ajmal, Member Judicial

Hon'ble Shri V. Nallasenapathy, Member Technical

Appearance (via video conferencing):

For the Applicant : Himself with authorised representative
Mr Devarajan Raman.

Per: Janab Mohammed Ajmal, Member (Judicial)

ORDER

This is an application by the Resolution Professional under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (the Code) seeking orders for liquidation of the Corporate Debtor.

2. The NCLT, Mumbai vide order dated 20.09.2019 admitted the Petition (CP (IB) No. 990/MB/2019) under Section 7 of the Code initiating Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor and appointed the present Applicant as the Interim Resolution Professional (IRP). The IRP constituted Committee of Creditors (CoC) consisting of two members – 1) Yes Bank Limited (Yes Bank) with

- 79.29% vote share; and 2) Jammu & Kashmir Bank Limited (J&K Bank) with 20.71% vote share. The CoC in its meeting appointed the IRP as Resolution Professional (RP) of the Corporate Debtor.
3. It is submitted that two valuers and transaction auditor were appointed by the Applicant on 07.01.2020. Further in the 4th CoC meeting held on 18.12.2019 the RP presented the contents of “Form-G” and Expression of Interest (EoI) to the CoC members. However, in the same meeting the representative of the Yes Bank submitted that since they expect no value from the assets of the Corporate Debtor, as there are no assets in the Company other than major receivables from associate concerns and group companies, the CoC members will explore possibility of directly passing the resolution for liquidation without further process of issuing “Form-G” and EoI in public. As no physical assets were available in the Company there was hardly any possibility of receiving any Resolution Plan for the Corporate Debtor. Therefore, in the 4th meeting the CoC members agreed to discuss the possibility of taking the Corporate Debtor directly to liquidation without any further process and requested RP to keep the agenda for the next CoC meeting to decide about the same.
 4. However, in the 5th meeting held on 21.01.2020, the CoC approved the Resolution for the publication of “Form-G” and rejected the Resolution to file liquidation application. Accordingly, the RP issued public announcement in “Form-G” in two newspapers (Free Press Journal and Navkal Marathi) on 22.02.2020. But, no EoI was received by the RP.
 5. In the 7th CoC meeting originally scheduled on 11.03.2020, the Resolution for extension of CIRP period was placed for voting. The J&K Bank was keen on the extension and was of the view that one more EoI needs to be sought. However, other member of CoC, Yes Bank was of the opinion that liquidation of Corporate Debtor is the best option for the following reasons.
 - i) The Company is not a going concern;
 - ii) There is no viability or feasibility of revival of the Company;

- iii) There are no assets in the Company (except balance with CoC members) which can generate future earning; and
 - iv) Recurrent cost of CIRP.
6. J&K Bank with 20.71% vote share voted for the extension of period of CIRP. The Yes Bank however could not vote on the agenda on account of their internal issues of the appointment of an Administrator for the Bank. They could not decide on the said agenda as they did not have a mandate to take any decision due to the restructuring that was underway. Therefore, Yes Bank requested for deferring the issue. Thus, the view of the majority vote share holder was not available. Hence, the scheduled meeting was, after consultation with CoC members, adjourned to 13.06.2020.
 7. The Applicant submits that in the meantime the CIRP period of 180 days has elapsed on 18.03.2020.
 8. The adjourned meeting was convened on 13.06.2020 through a conference call and the Resolution for liquidation of Corporate Debtor was adopted with 100% vote share and the RP was authorised to make necessary Application in that regard. The Applicant submits as the lockdown due to Covid-19 was continuing, the resolution passed in the adjourned meeting convened on 13.06.2020 be considered as a part of the meeting originally scheduled on 11.03.2020.
 9. The Applicant Resolution Professional has given his consent to act as Liquidator. However, it is noticed that the proposed fee of the Liquidator has been rejected by the CoC. The Applicant who was present during the virtual hearing submitted that he is ready and willing to work as Liquidator on the fees provided as per the IBBI Regulations.
 10. On hearing the submissions of the Professional representing RP and the RP (Applicant) himself, this Bench is satisfied that this Application is in consonance with section 33(2) of the Code. Orders for liquidation of the Corporate Debtor needs to be passed. Hence ordered.

ORDER

The application be and the same is allowed with the following directions.

- a) The Corporate Debtor i.e. M/s PAN India Utilities Distribution Company Limited shall be liquidated in the manner as laid down in Chapter-III of the Code.
- b) The present Applicant Mr Hemant Mehta, presently RP of the PAN India Utilities Distribution Company Limited is appointed as the Liquidator.
- c) He shall issue public announcement stating that Corporate Debtor is in liquidation.
- d) The Moratorium declared under Section 14 of the IBC 2016 shall cease to operate here from.
- e) Subject to section 52 of the IBC 2016 no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- f) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- g) The liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.
- h) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- i) The Liquidator shall be entitled to such fees as may be specified by the Board in terms of Section 34 (8) of the Code.
- j) 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.

- k) Copy of the Order shall be furnished to the IBBI, to the Regional Director (Western Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Maharashtra, the Registered Office of the Corporate Debtor; and the Liquidator.

**Sd/-
V. NALLASENAPATHY
MEMBER TECHNICAL**

**Sd/-
JANAB MOHAMMED AJMAL
MEMBER JUDICIAL**