IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

IA (IB) No. 999/KB/2021
in
CP (IB) No. 1312/KB/2019

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

In the matter of

Vinnarasi Industries

… Operational Creditor

Versus

UT Limited

… Corporate Debtor

-And-

In the matter of:

Committee of Creditors

Represented through Antriksh Vyapaar Limited

-And-

In the matter of:

Mr. Anang Kumar Sandilya

Resolution Professional of UT Limited

… Applicant

Order reserved on: 11.03.2022

Order pronounced on: 30.03.2022

Coram:

Shri Rohit Kapoor, Member (Judicial)

Shri Harish Chander Suri, Member (Technical)

Appearances (through video conferencing):

For the Applicant

1. Mr. Rishav Banerjee, Advocate
2. Mr. Avik Chaudhuri, Advocate

Resolution Professional

Mr. Anang Kumar Shandilya

For the CoC

Mr. Aritra Basu, Advocate

ORDER

Per: Rohit Kapoor, Member (Judicial)

1. This court convened *via* video conferencing.

2. This is an application filed by the Resolution Professional upon the instructions of the Committee of Creditors (CoC) seeking liquidation of the Corporate Debtor, *viz.,* U T Limited [CIN: L29120WB1965PLC026533], on the ground that the CIRP period has expired and no resolution plan was approved by the Committee of Creditors ('CoC'). The Applicant has sought for the following reliefs:

   a. *Allow the instant Application and pass an order of Liquidation of the Corporate Debtor.*

   b. *Appoint Mr. Anang Kumar Shandilya having IBBI registration no. IBBI/IPA-002/IP-N00882/2019-20/12826 as the Liquidator of the Corporate Debtor.*

3. This Adjudicating Authority *vide* its order dated 28 February 2020 on a Petition filed by the Vinnarasi Industries *('operational creditor')* under section 9 of the Insolvency and Bankruptcy Code, 2016 *('the Code')* directed initiation of the Corporate Insolvency Resolution Process ('*CIRP*') against UT Limited, the Corporate Debtor, and appointed Mr. Pranab Kumar Chakraborty as the Interim Resolution

Professional ('*IRP*'). The IRP was replaced with Mr. Kamal Narayan Jain as the Resolution Professional ('*RP'*) *vide* order dated 24 July 2020.

4. The Committee of Creditors ("CoC") in its meeting held on 25 January 2021 resolved and proposed to appoint Mr. Anang Kumar Shandilya as the Resolution Professional. *Vide* order dated 06 April 2021, Mr. Kamal Narayan Jain was replaced with Mr. Anang Kumar Shandilya as the Resolution Professional.

5. The Applicant submits that the erstwhile IRP, in terms of section 15 of the Code, made public announcement and formed the Committee of Creditors with one Financial Creditor *viz.* Antriksh Vyapaar Limited.

6. The first meeting of the CoC was held on 01 July 2020 wherein the CoC resolved to replace the IRP with Mr. Kamal Narayan Jain. The Applicant states that the publication for invitation of Expression of Interest ("EoI") in Form G was done on 30 October 2020 and 14 December 2020 in Financial Express (English) (Kolkata and Delhi editions) and Ek Din (Bengali) (Kolkata edition) and Jansatta (Hindi) (Delhi edition) newspapers. The last date of submission of EOI was 29 December 2020.

7. It is submitted that the RP received two EOI's but the Prospective Resolution Applicants were not interested in carrying on with the submission of EoI.

8. In the 15th CoC meeting held on 08 October 2021, the CoC passed a resolution for initiation of liquidation of the Corporate Debtor and appointment of Mr. Anang Kumar Shandilya as the Liquidator.

9. It is further submitted that this Adjudicating Authority *vide* order dated 07 January 2021 excluded 250 days from the CIRP period i.e. from 25 March 2020 to 30 November 220 and a period of 60 days extension

from the CIRP period. A further period of 85 days was excluded *vide* order dated 24 August 2021.

10. Hence, the RP has filed an application under section 33(1) of the Code, before the Adjudicating Authority for liquidation of the Corporate Debtor on expiry of the CIRP period.

11. The Applicant/Resolution Professional, Mr Anang Kumar Shandilya [Reg. No. IBBI/IPA-002/IP-N00882/2019-20/12826], has agreed to act as liquidator to carry on the process of liquidation and given his consent to act as Liquidator, in terms of section 34(1) of the Code.

12. We have considered the submission made by the learned Counsel on behalf of the Applicant/RP and perused the record.

13. Section 33(1) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Debtor where before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process does not receive a resolution plan under sub-section (6) of section 30 of the Code.

14. This Bench, therefore, hereby orders as follows: -

    a. Prayers as sought for in I.A. (IB) No. 999/KB/2021 filed by Mr. Anang Kumar Shandilya, RP of UT 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;

    b. **Mr Anang Kumar Shandilya [Reg. No. IBBI/IPA-002/IP-N00882/2019-20/12826],** is hereby appointed as Liquidator is hereby appointed as Liquidator as provided under section 34(1) of the Code subject to a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member,

c. 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.

d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, *i.e.,* Financial Express (English) (Kolkata and Delhi editions) and Ek Din (Bengali) (Kolkata edition) and Jansatta (Hindi) (Delhi edition) newspapers stating that the Corporate Debtor is in liquidation.

e. 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.

f. 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.

g. 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.

h. 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.

i. 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.

15. The application bearing **IA (IB) No. 999/KB/2021** shall stand disposed of in accordance with the above directions.

16. 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.

17. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

18. List the main **CP (IB) No. 1312/KB/2019** for reporting progress on **26.04.2022**.

[Harish Chander Suri]
Member [Technical]

[Rohit Kapoor]
Member [Judicial]

Order pronounced on the 30th day of March 2022.

GGRB[LRA]