

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

COURT – IV : (Special Bench)

18.

IA-96/2024 in C.P.(IB)/496(MB)/2023

CORAM:

SHRI. SANJIV DUTT
MEMBER (Technical)

SHRI. KISHORE VEMULAPALLI
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON 27.11.2024

NAME OF THE PARTIES: State Bank of India (Through Kamlesh Verma)
Vs
Advantage Overseas Private Limited

SECTION: 7, 33(1) (b) (i) to (iii) r/w 33(3) OF INSOLVENCY AND BANKRUPTCY CODE,
2016.

ORDER

1. Mr. Prathamesh Nirkhe i/b Mr. Amit Tungare, Ld. Counsel for the Applicant / Resolution Professional in IA-96/2024 present (VC).
2. **IA-96/2024:** This is an Interlocutory Application filed on 13.08.2024 by Mr. Sunit Shah, Resolution Professional of the Corporate Debtor under Section 33(2) of Insolvency and Bankruptcy Code, 2016, seeking liquidation of **Advantage Overseas Private Limited** [CIN: U05121MH2004PTC199195].
3. This Tribunal vide an order dated 10.11.2023 in Company Petition (IB)-496(MB)/2023, filed under Section 7 of the IBC, 2016 by **State Bank of India** (hereinafter referred to as the "Financial Creditor") admitted the Petition and Corporate Insolvency Resolution Process (CIRP) was commenced against Advantage Overseas Private Limited (hereinafter referred to as the "Corporate Debtor"). The applicant herein was appointed as Interim Resolution Professional by this Tribunal vide the admission order dated


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10.11.2023. He was later appointed as Resolution Professional (RP) of the Corporate Debtor by the CoC in its First meeting held on 08.12.2023.

4. The Applicant submits that upon receiving the intimation, the Applicant made public announcement in Form A in two local newspapers viz. 'Free Press Journal' (*English*) and 'Navshakti' (*Marathi*) inviting claims from the Creditors of the Corporate Debtor.
5. The Applicant further submits that he published Form G inviting Expression of Interest (EoI) for Prospective Resolution Applicants (PRAs) in two local newspapers viz. Financial Express (*English*) and 'Loksatta' (*Marathi*) on 12.01.2024. He received four EoIs, however, one backed out later on.
6. The Applicant further submits that in the Fifth CoC meeting held on 08.04.2024, he apprised the members that one more PRA has withdrawn from the resolution process. In the Sixth CoC meeting held on 10.04.2024, it was decided to re-issue the Form G and to seek 90 days' extension of CIRP period beyond 180 days.
7. The RP sought for 90 days CIRP extension through IA-2486/2024 which was allowed by the Adjudicating Authority vide order dated 21.05.2024.
8. The Applicant re-issued Form G on 17.04.2024 in Financial Express (*English*) and Navshakti (*Marathi*). In the Seventh CoC meeting held on 10.05.2024, the Applicant informed that he had received three EoI from PRAs. He further informed that he had received two Resolution Plans. However, the EMD of one Applicant was received later and another PRA sought more time.

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9. In the Eighth CoC meeting held on 10.06.2024, the CoC stated that late receipt of EMD will not be ratified. In the Ninth CoC meeting held on 26.07.2024, the Applicant informed that the Corporate Debtor is not an operating entity and only has two assets i.e. office in Mumbai and shares in DMAT account. As there was no Resolution Plan approved by the CoC, the members of the CoC were left with no option but to resolve to put the Corporate Debtor into liquidation. After deliberations, CoC asked the Applicant to put resolution for initiation of the liquidation of the Corporate Debtor. Accordingly, the following resolution was passed by the CoC with 100% voting:

“RESOLVED THAT pursuant to Section 33 of the Insolvency and Bankruptcy Code, 2016 and the regulations made thereunder, the consent of the CoC Members be and is hereby approves the Initiation of Liquidation proceedings against the Corporate Debtor i.e. Advantage Overseas Private Limited”.


“RESOLVED FURHTER THAT the Resolution Professional be and is hereby authorised to submit an application before the Hon’ble Adjudicating Authority and to do all such acts, deeds and things as may be required or considered necessary or incidental thereto”.

10. During the CIRP of the Corporate Debtor, the RP convened a total of Nine CoC meetings and sought one extension of 90 days.
11. Considering the facts and circumstances as submitted by the Applicant in the Application and by the Counsel appearing for the Applicant, this Bench is of the considered view that the Corporate Debtor be liquidated. Accordingly, this Bench orders that -

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- a. The Corporate Debtor viz. **Advantage Overseas Private Limited** (CIN: U05121MH2004PTC199195) is 'under liquidation' w.e.f. the date of this order.
- b. Mr. Kamal Kumar Jadwani, an Insolvency Professional, having IBBI Registration No.: IBBI/IPA-001/IP-P02786/2022-2023/14259 email: kamaljadwani@gmail.com is hereby appointed as the 'Liquidator' to conduct liquidation process of Advantage Overseas Private Limited as provided under Section 34(1) of the Code.
- c. The Liquidator would be entitled to the fees as mutually agreed between the Liquidator and the CoC or as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016 to conduct the liquidation proceedings.
- d. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- e. The Liquidator appointed under Section 34(1) of the Code, will have all powers of the Board of Directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be.
- f. The personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

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- g. The Corporate Debtor is to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation, with a direction to the Liquidator to send this order to the RoC under which this Company has been registered.
 - h. All the powers of the Board of Directors, key managerial personnel, the partners of the Corporate Debtor hereafter cease to exist and have effect.
 - i. On having liquidation process initiated, 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 proceedings on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.
 - j. The Liquidator shall take necessary legal action to recover the Trade Receivables and other Credits such as Loans and Advances from the parties which are reflected in the latest Balance Sheet of the Corporate Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed u/s 33(5) of the Code.
 - k. This liquidation order u/s 33(7) 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.
 - l. Moratorium declared vide Order dated 10.11.2023 in CP(IB)-496(MB)/2023, henceforth cease to exist.



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- m. The Liquidator shall submit the progress report of liquidation periodically.
12. The CoC is directed to clear all dues payable to the Resolution Professional before handing over his charge to the newly appointed Liquidator.
13. With the above directions, the IA-96/2024 in CP(IB)-496(MB)/2023 filed u/s 33 of the IBC, 2016 by the Applicant is hereby **allowed** and disposed of.

Sd/-
SANJIV DUTT
Member (Technical)

Sd/-
KISHORE VEMULAPALLI
Member (Judicial)