NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
BENCH-II

IA No. 13 of 2022

IN

CP (IB)74/(AHM)/2020

[An application filed under section 33 (1), 33 (2) and 34 (1) of the Insolvency and Bankruptcy Code,2016 for initiation of liquidation of the Corporate Debtor]

<u>IN THE MATTER OF:</u>

Mr. Kailash T Shah
(The Resolution Professional of
Yug Weave Tech Private Limited)
Office of RP:
505, 21st Century Business Centre
Near World Trade Centre
Ring Road
SURAT 395 002 ... Applicant/ Resolution Professional

Order Pronounced on: 06/07/2022

<u>CORAM:</u>

Dr. DEEPTI MUKESH
MEMBER (JUDICIAL)
AJAI DAS MEHROTRA
MEMBER (TECHNICAL)

<u>Present:</u>

For the RP: Mr. Nipun Singhvi, Advocate
For the Respondent/RP : Mr. Kailash Shah, Advocate

ORDER

1 This is an application filed by the Resolution Professional (hereinafter referred to as "RP") under Section 33 (1), 33 (2) and 34 (1) of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "Code") for passing an order of liquidation of the Corporate Debtor, M/s. Yug Weave Tech Private Limited.

2 The brief facts are summarized hereunder :

(i) One Operational Creditor, M/s. Kuber Texlen Private Limited had filed an application under Section 9 of the Code for initiation of Corporate Insolvency Resolution Process (hereinafter referred to as the 'CIRP'), against the Corporate Debtor, M/s. Yug Weave Tech Private Limited, which was admitted vide order dated 23.10.2020 and Mr. Kailash T. Shah was appointed as Interim Resolution Professional (hereinafter referred to as "IRP").

(ii) The IRP under Regulation 6 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, made a public announcement in Form-A on 27.10.2020, and based on claims received constituted the Committee of Creditors ("COC"). The CoC in its first meeting held on 21.11.2020 resolved to continue the IRP Mr. Kailash T. Shah as Resolution Professional (RP) of the corporate debtor and the RP was authorised to appoint the two valuers for each class of assets of the corporate debtor. As per valuation reports average liquidation value of the corporate debtor is Rs. 2,05,05,461.00 (Rupees two crores five lacs five thousand four hundred sixty-one only) and average fair value of the corporate debtor is Rs. 2,78,92,961.00 (Rupees two crores seventy-eight lacs ninety-two thousand nine hundred sixty-one only).

(iii) In 2nd meeting of CoC, Sole CoC member resolved to appoint transaction auditor for conducting transaction/forensic audit.

(iv) That the 3rd CoC meeting was held on 20.04.2021 wherein further course of action by inviting EOI, publication of Form G, Information

Memorandum, RFRP and evaluation matrix were discussed. CoC member with 100% voting share resolved to seek extension of CIRP for further 90 days which was allowed vide order dated 05.05.2021.

(v) The CoC in its 4th meeting held on 11.05.2021, passed resolution with 100% voting for replacement of RP Mr. Kailash Shah with Mr. Suyash Chhajed. Consequent thereto, an application bearing IA No. 473/2021 was filed by CoC. However, the said application was withdrawn and was disposed of vide order dated 17.12.2021.

(vi) During the 5th meeting of CoC held on 20.07.2021, the applicant informed that the Transaction Audit Report was received and same was shared with sole member of CoC on 13.07.2021. In the report received by the applicant on 10.07.2021 the auditor has inter alia observed as follows:

(a) As per information made available and with the data available from the ROC search, the company has filed last Audited Balance-sheet for the year ending 31.03.2017.

(b) The debtors outstanding as on 31.03.2017 have been outstanding for period ranging from 6 to 18 months.

(c) Management is requested to arrange for the clarification on the following points:

(i) From which of the parties (trade receiveable) the amount is said to be received?

(ii) If the amount is said to be received from the Trade Receivable, convey where the amount has been deposited?

(vii) The applicant in terms of Regulation 36A of the Insolvency and Bankrupty Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 published invitation for submission of Expression of Interest (EOI) in Form G on 21.07.2021 and the last date for submission of EOI by the prospective resolution applicants was on 05.08.2021. However, no EOI was received by the applicant.

(viii) Resolution was passed in 5th CoC meeting for seeking exclusion of 69 days of CIRP including the lockdown period of Covid – 19 pandemic second wave, hence, applicant filed application on 20.07.2021 for exclusion of 69 days from the CIR period. As the total period of 330 days had already expired on 21.09.2021, this Bench vide order dated 26.10.2021, directed the applicant to convene a meeting of lenders and to decide whether to seek extension or to go for liquidation. Pursuant to order dated 26.10.2021 the applicant convened 6th CoC meeting on 02.11.2021 wherein it was resolved by the sole CoC member that an application may be filed for Preferential, undervalued, fraudulent and extortionate transactions in respect of corporate debtor and also recommended liquidation of the corporate debtor with a direction to sell corporate debtor as a going concern. The RP has accordingly filed application for preferential and fraudulant transactions against respective parties under provision of the Code.

(ix) In the 6th meeting held on 01.12.2021 Sole CoC member passed following resolutions:

> *"RESOLVED THAT CoC recommends liquidation of the corporate debtor – M/s. Yug Weave Tech Pvt. Ltd. subject to approval of Hon'ble NCLT, Ahmedabad Bench"*
>
> "*RESOLVED THAT Mr. Suyash Rajendra Chhajed, Insolvency Professional having IBBI Registration No. IBBI/IPA-001/IP-P-02271/2020-2021/13490 has given his consent to act as Liquidator, be and is hereby recommended as Liquidator of the corporate debtor subject to approval of Hon'ble Adjudicating Authority."*
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> *"RESOLVED THAT the Liquidator is authorised to carry out sale of the corporate debtor as a going concern under clause (e) of Regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016"*

3. For the sake of ready reference, the relevant provision of section 33 (2) of the Code, which is applicable is reproduced hereunder:

> *(2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors [approved by not less than 66% of the voting share] to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of Clause (b) of sub-Section (1).*
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> *[Explanation: for the purposes of this sub-section, it is hereby declared that the committee of creditors may take the decision to liquidate the corporate debtor, any time after its constitution under sub-section (1) of Section 21 and before the confirmation of the resolution plan, including at any time before the preparation of the information memorandum].*

4. Pursuant to order dated 29.04.2022 the applicant has submitted last audited financial statement of corporate debtor for the year ending 31st March, 2017 and provisional financial statement of the corporate debtor from 1st April 2020 to 23rd October, 2020.

5. Considering the submissions and documents on record, since the COC in its commercial wisdom has decided to take the Corporate Debtor into liquidation with 100% voting we feel there is no necessity to interfere with the said resolution for liquidation. The present application seeking

liquidation of the Corporate Debtor M/s Yug Weave Tech Private Limited, in the manner laid down in Chapter III of Part II of the Code, is allowed.

6. The CoC has proposed name of Mr. Suyash Rajendra Chhajed, Insolvency Professional having IBBI Registration No. IBBI/IPA-001/IP-P-02271/2020-2021/13490, who has also consented to act as a Liquidator and has filed his written consent, having an address at 2nd Floor, Shree Gurudeo Tower, Above Shirpur Co.op. Bank, Besides Ahirrao Photo Studio, Canada Corner, Nashik 422 005, Hence we appoint Mr. Suyash Rajendra Chhajed, as liquidator of corporate debtor, in terms of Section 34 (1) of the Code with the following directions:

a) The liquidator to issue a Public Announcement in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and proceed with the process of liquidation in the manner laid down in Chapter-III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant rules and regulations.

b) This order is deemed to be a notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016.

(c) The Liquidator to submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

7. As a consequence of the application being admitted, the moratorium as envisaged under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh moratorium under Section 33 (5) of the Insolvency and Bankruptcy Code, 2016 shall commence.

8. A copy of this order shall be communicated to the applicant RP and the corporate debtor as well as to the liquidator above named. The liquidator is to be informed of his said appointment by the Registry. In addition, a copy of said order shall also be forwarded to IBBI for its records and ROC for updating the Master Data. ROC shall send a compliance report to the Registrar, NCLT.

Sd/-	**Sd/-**
AJAI DAS MEHROTRA	**DR. DEEPTI MUKESH**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

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