IN THE NATIONAL COMPANY LAW TRIBUNAL,

COURT V, MUMBAI BENCH

I.A. 280 of 2021

Under Section 33, 34 and 35 read with 60(5) of Insolvency & Bankruptcy Code, 2016

Filed by

Mr. Arun Bagaria

Stanford Building, Juunction of SV Road and Juhu Galli, Andheri (West), Mumbai: 400 058

...Resolution Professional/Applicant

In the matter of

CP (IB) No. 2793 of 2019

Punjab National Bank

...Petitioner

Versus

Radiant Bizcom Private Limited

...Corporate Debtor

Order Delivered on: 13.12.2022

Coram:

Hon'ble Shri Kuldip Kumar Kareer (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

Appearance:

For the Applicant: Mr. Umang Mehta, Advocate

Per: *<u>Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)</u>*

राष्ट्रीय कम्पनी विधि अधिकरण
NATIONAL COMPANY LAW TRIBUNAL
मुंबई न्यायपीठ
MUMBAI BENCH

ORDER

1. The above application is filed by Mr. Arun Bagaria, Resolution Professional, (hereinafter referred to as the "**Applicant**") seeking liquidation of M/s Radiant Bizcom Private Limited (hereinafter referred to as the "**Corporate Debtor**") under Section 33, 34 and 35 read with 60(5) of the of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as "**the Code**"), praying for following reliefs:

   a. *That this Hon'ble tribunal maybe pleased to allow the present Application under Section 33 of the Insolvency and Bankruptcy Code, 2016;*

   b. *That this Hon'ble Tribunal maybe pleased to pass appropriate orders permitting the initiation of liquidation process of the Corporate Debtor;*

   c. *That this Hon'ble Tribunal may be pleased to appoint the Applicant as Liquidator under Section 34(1) of the Insolvency and bankruptcy Code, 2016;*

   d. *This Hon'ble Court maybe pleased to pass appropriate orders for the Liquidator to consider feasibility/non feasibility of sale of the Corporate Debtor as a going concern as per Regulation 39C of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person), 2016.*

   e. *This Hon'ble Tribunal may be pleased to pass appropriate orders under Regulation 39D of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person), 2016;*

f. *Any other directions as deemed fit and necessary by this Hon'ble Tribunal in the interest of Justice and equity;*

g. *Costs of present Application.*

2. **The brief facts of the application are as follows:**

A. That this Tribunal vide an order dated 04.11.2019 in Company Petition No. 2793 of 2019, admitted the Petition under Section 7 of the Code, filed by Punjab National Bank (hereinafter referred to as the "**Financial Creditor**") and Corporate Insolvency Resolution Process (hereinafter referred to as the "**CIRP**") was initiated against M/s Radiant Bizcom Private Limited (hereinafter referred to as the "**Corporate Debtor**"). The Applicant herein was appointed as the Interim Resolution Professional, (hereinafter referred to as the "**IRP**") of the Corporate Debtor.

B. The Applicant submits that a public announcement inviting claims from the creditors in Form-A was made on 11.11.2019 in two newspapers viz Free Press Journal (English newspaper) and Navshakti (Marathi newspaper)

C. On 09.12.2019 during the 1st meeting of the Committee of Creditors (referred to as the "CoC") the Applicant was appointed as the Resolution Professional, which is approved by the sole member with 100% voting in favour of the same. The Applicant further states that registered valuers were also appointed.

D. The Applicant states that the during the 2nd meeting of COC held on 14th February 2020, the requirement for conducting forensic transaction audit was deliberated.

E. During the 3rd Meeting of COC held on 20th May 2020, the Applicant states that the Invitation of Expression of Interest inter alia containing the information memorandum and eligibility criteria was discussed in detail and resolution was passed to publish Form G accordingly.

F. The Applicant further submits that on 22nd May 2020, Form G inviting Expression of Interest was published in the Free Press Journal (English) newspaper and Navshakti (Marathi) newspaper in Mumbai Edition.

G. The Applicant states that pursuant to publication of Form G, one Expression of Interest along with confidentiality undertaking was received by the Applicant from CA Sudeep S. Dasani on 6th June 2020. However, said Expression of Interest (EOI) did not meet the eligibility criteria and thus, the Applicant sought further relevant details and clarifications but same were not provided within reasonable time and thus no list containing prospective Resolution Applicant could be made.

H. The Applicant further states that business of the Corporate Debtor is shut since August, 2017, the Corporate Debtor had complied its statutory filings requirements as prescribed under the Companies Act , 2013 till year 2019. The Applicant states that two valuers were appointed viz. (a) V.S. Jadon & Co, Valuers and (b) M/s Den Valuer. The Applicant further states that Valuation of Assets from one of the Appointed Valuers (Mr. Raja Shambhu) could not be done as there was no co-operation from the suspended management. Therefore, with available limited information, a valuation report was received by the Applicant from M/s. Den Valuer "Jigar Shah" on 29th September 2020.

I. The Applicant submits that during the 4th COC Meeting held on 5th October 2020, inter alia it was deliberated that since no resolution plan came forward and facts as aforementioned, it was decided that the liquidation process of the Corporate Debtor should be initiated.

J. On 15th December 2020, during the 5th COC meeting, the Applicant was decided to be appointed as a 'Liquidator' and estimated liquidation cost as approved by COC is Rs. 7,71,000/- plus applicable taxes.

K. The Applicant submits that 180 days have not expired as same was due on 2nd May 2020. However, due to Covid-19 pandemic, the period of Lockdown in Maharashtra i.e. from 24th March 2020 till date and additional period 40 days is still left in the CIRP process. The Applicant further submits that in Suo Moto in re: Company Appeal 01 of 2020 decided on 30th March 2020, the Hon'ble National Company Appellate Tribunal passed an order thereby excluding period of lockdown for purposes of completion of days.

L. The Applicant submits that in view of the above circumstances, it is just and necessary to initiate the liquidation of the Corporate Debtor.

M. Heard the counsel appearing for the Resolution Professional and perused the record. The Counsel for the Resolution Professional submits that no Resolution Plan has been received and there is no option except to put the Corporate Debtor Company into Liquidation as per the Code. Since the COC with a required mandate 100% voting approved for Liquidation of the Corporate Debtor in view of not getting any Resolution Plans, this Tribunal has very limited judicial review in such matters of commercial wisdom and therefore this Bench has no option except to allow the above Liquidation Application. The Counsel appearing for the Applicant has also filed consent letter of Resolution Professional, **Mr. Arun Bagaria** to act as the Liquidator. In view of the above facts, this Bench feels that this is a fit case for ordering Liquidation of the Corporate Debtor. Accordingly, the Interlocutory Application Number 280 of 2021 is **allowed** directing the liquidation of the Corporate Debtor. Accordingly, we pass the following:

ORDER

The above I.A. No. 280 of 2021 is allowed and the Corporate Debtor i.e. **Radiant Bizcom Private Limited** is ordered to be liquidated.

a. **Mr. Arun Bagaria**, having Registration No. IBBI/IP-N00278/2017-18/10836 and having office at: 701, Stanford Building, Junction of

S V Road and Juhu Gallup, Andheri (West), Mumbai: 400 058 is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.

b. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.

c. 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.

d. 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, shall cease to have effect and shall be vested with the liquidator.

e. That the Corporate Debtor 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.

f. All the powers of the Board of Directors, Key Managerial Persons, the Partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.

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g. That 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.

h. That 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 proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.

i. 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.

With the above directions, this application i.e. I.A. No. 280 of 2021 is hereby allowed and disposed of.

SD/-	**SD/-**
ANURADHA SANJAY BHATIA **MEMBER (TECHNICAL)**	**KULDIP KUMAR KAREER** **MEMBER (JUDICIAL)**

Certified True Copy
Copy Issued "free of cost"
On 07-02-2023

S. Sonawane 07.02.2023
Deputy Registrar
National Company Law Tribunal Mumbai Bench
(D-2012) 07.02.2023