

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-II)
KOLKATA**

I.A No. 1089/KB/2022
In
C.P (I.B) No. 04/KB/2020

An Application under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

In the matter of:

Arvinder Singh

...Operational Creditor

And

Supersonic Dealcom Private Limited

CIN: U51109WB2007PTC113832

.... Corporate Debtor

And

In the matter of

An application under Section 33(1) of the Insolvency and Bankruptcy Code, 2016

And

In the matter of:

Santanu Bhattacharjee

...Resolution Professional/Applicant

Order Pronounced on : 10 February 2023

Coram:

Shri Rohit Kapoor, Member (Judicial)

Shri Balraj Joshi, Member (Technical)

Appearances (via video conferencing / Physical)

Ms. Urmila Chakraborty, Adv. : For RP
Mr. Saurav Jain, Adv.

ORDER

Per: Balraj Joshi, Member (Technical)

1. The Court convened through hybrid mode.
2. This is an application filed by **Resolution Professional** appointed to carry out the CIRP in respect of Corporate Debtor viz Supersonic Dealcom Pvt. Ltd. by an Operational Creditor namely Sri Arvinder Singh who is carrying on business under the trade name and style of M/s A.B. Singh & Associates, in the sole proprietorship from his office at SCO: 59-60 Phase 3B2 SAS Nagar Mohali.
3. The application seeks an order of liquidation against the Corporate Debtor as the CoC in its wisdom has decided not to carry on with the process of CIRP considering meagre assets of the Corporate Debtor.
4. The CIRP was initiated on 20/04/2022 and one Mr. Debasis Bhattacharjee was appointed as Insolvency Resolution Professional whereupon a public announcement was made as per Regulation 6 of CIRP Regulations in Form A and was published in two newspapers as required under the Statute.
5. In connection with the above, IRP also sent the detailed list of documents and information required to run the CIRP process in a time bound manner to the Suspended Board of Directors through e-mail. Thereafter, the IRP in the very first meeting of the CoC on 19/05/2022 expressed his wish to be discharged from the engagement as RP from the case considering his poor health condition.
6. Subsequently, the CoC passed a resolution for replacement of Mr. Debasis Bhattacharya and appointment of **Mr. Santanu Bhattacharjee** as the RP. This appointment was confirmed by this Adjudicating Authority on 30th June, 2022 whereafter the RP conducted CoC meetings from time to time to discuss and deliberate all possibilities of reviving the Corporate Debtor. He also has submitted progress reports from time to time before this Tribunal to update ongoing CIRP.
7. In the 2nd Meeting of the CoC, a proposal was put forth by the RP to publish Form-G and finalize the eligibility criteria. However, the CoC which comprises of only 1 Member who is himself the petitioner that is Operational Creditor decided not to issue the Form-G or appoint in transaction/Forensic Auditor as required under the law.
8. The RP then appointed two valuers as per provisions of IBBI Regulations 2015 and it was discerned that the only fair value and liquidation value was 1,64,964/-. Keeping

in view this meagre valuation of the company, it was resolved by the CoC in the 4th Meeting to file an application before this Adjudicating Authority for the liquidation of the Corporate Debtor followed by early dissolution as per Regulation 14 of the IBBI Regulations (liquidation process) which is the subject matter of the current application.

9. This is a predicament before this authority that despite having the information about the meagre assets of the Corporate Debtor which are ex-facie not going to be sufficient even to meet the liquidation cost of the Corporate Debtor, still in order to follow the laid down process of law more expenditure has to be incurred thus further eroding value of the Corporate Debtor.
10. Be that as it may, we **allow** the prayer of the applicant to liquidate the Corporate Debtor in the manner laid down under Section 33(5) and also as detailed in the IBBI Liquidation Process Regulations, 2016.
11. This Bench, therefore, hereby orders as follows:-
 - a. **Sri. Santanu Bhattacharjee IBBI /IPA – 001/IP – P01141/2018-2019/11868** has already given his consent for acting as a liquidator is appointed as a liquidator for the Corporate Debtor.
 - b. 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.
 - c. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, stating that the Corporate Debtor is in liquidation.
 - d. 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.
 - e. 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.
 - f. 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.

- g. 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.
- h. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the **Registrar of Companies, West Bengal**, 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**.
- i. The application bearing **IA(IBC)/1089(KB)2022** shall stand disposed of in accordance with the above directions.
- j. **CP(IB)/04(KB)2020** is to come up for filing of periodical report on **11.04.2023**
- k. 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.
- l. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Balraj Joshi
Member (Technical)

Rohit Kapoor
Member (Judicial)

Order signed on the 10th day of February 2023.