



ITEM No303
IA/859(AHM)2022
in
CP(IB)/130(AHM)2021

Proceedings under Section 33 r.w 34 IBC

IN THE MATTER OF:

Vineeta Maheshwari RP for Yogiraj Ginning & Oil
Industries Pvt Ltd

.....Applicant

V/s

.....Respondent

COC of Yogiraj Ginning & Oil Industries Pvt Ltd & Ors

Order delivered on 06/06/2023

Coram:

Mr. Deep Chandra Joshi, Hon'ble Member(J)

Mr. Ajai Das Mehrotra, Hon'ble Member(T)

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

SD/-

SD/-

**AJAI DAS MEHROTRA
MEMBER (TECHNICAL)**

**DEEP CHANDRA JOSHI
MEMBER (JUDICIAL)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
(COURT NO. II)**

IA/859/2022

IN

CP (IB) 130/7/NCLT/AHM/2021

(Under Section 33 r.w Section 34 of the Insolvency and Bankruptcy Code, 2016)

In the Matter of:

Ms. Vineeta Maheshwari,
Resolution Professional of
M/s. Yogiraj Ginning & Oil Industries Private Limited

...Applicant

In the Matter of:

State Bank of India

... Financial Creditor

Versus

Yogiraj Ginning & Oil Industries Private Limited

...Corporate Debtor

Order Pronounced On: 06 /06/2023

Coram:

**DEEP CHANDRA JOSHI,
HON'BLE MEMBER (JUDICIAL)
AJAI DAS MEHROTRA,
HON'BLE MEMBER (TECHNICAL)**

MEMO OF PARTIES

Ms. Vineeta Maheshwari,
 Resolution Professional of
 M/s. Yogiraj Ginning & Oil Industries Private Limited
 Having office at:
 301, 3rd Floor, Reegus Business Centre,
 Above Mercedes Benz Showroom,
 New Citylight Road,
 Bharthana-Vesu
 SURAT 395 007

...Applicant

Versus

- 1 Mr. Kuldeepsinh Anopsinh Chudasama
 Suspended Board of Director
 Yogiraj Ginning & Oil Industries Private Limited
 B/164, New Sardar Marketing Yard,
 8-B National Highway, Gondal, Rajkot-360311

- 2 Mr. Pusprajsinh Anopsinh Chudasama
 Suspended Board of Director
 Yogiraj Ginning & Oil Industries Private Limited
 B/164, New Sardar Marketing Yard,
 8-B National Highway, Gondal, Rajkot-360311

...Respondent

Present:

For the Applicant:
 For Respondent

Mr. Ravi Pahwa, Advocate
 Mr. Rajiv Chawla, Advocate
 Mr. Arjun Sheth, Advocate

ORDER

1. The Present Application is filed by Ms. Vineeta Maheshwari, Resolution Professional (hereinafter referred as the “applicant”) of corporate debtor M/s. Yogiraj Ginning & Oil Industries Private Limited (CIN: U17120GJ2014PTC081190) (hereinafter referred to as “Corporate Debtor”), under Section 33 r.w Section 34 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “Code”) for liquidation of the Corporate Debtor.
2. This Adjudicating Authority, vide order dated 18.04.2022, admitted the application filed by State Bank of India under Section 7 of the Code for initiation of Corporate Insolvency Resolution Process (‘CIRP’) of the Corporate Debtor (M/s. Yogiraj Gining & Oil Industries Private Limited) and appointed Ms. Vineeta Maheshwari as the Interim Resolution Professional (‘IRP’).
3. The applicant submits that the public announcement was made on 21.04.2022 and claims were invited by the IRP. The IRP constituted Committee of Creditors (“CoC”) on 11.05.2022, comprising of the sole Financial Creditor namely State Bank of India with 100% voting share in accordance with the relevant provisions of the IB Code and the Rules and

Regulations framed thereunder. In the 1st CoC meeting held on 19.05.2022, the IRP was confirmed as Resolution Professional. In this said meeting CoC also resolved to authorise Resolution Professional(RP) to appoint Registered Valuer and approved the feed of registered valuers.

4. In the 2nd CoC meeting held on 14.06.2022 by the applicant, CoC deliberated eligibility criteria for prospective resolution applicant, as per Section 25(2) of the code. The RP published Form-G for inviting EOI on 25.06.2022 and the last date for receipt of EOI was 11.07.2022.
5. In the 3rd meeting held on 02.07.2022 the applicant apprised the sole member of CoC of publication of invitation of EoI in Form G on 25.06.2022 and receipt of eight inquiries and issuance of show cause notice to the suspended management of the corporate debtor in relation to the observations on the latest audited financial statements. Copy of the minutes of the said meeting are annexed with the application.
6. The 4th CoC meeting was held on 14.07.2022, wherein the sole member of CoC gave approval to re-publish Form –G. In pursuant of said meeting, the Resolution Professional republished Form –G on 18.07.2022 are the last date of receipt of EOI was 02.08.2022.

7. The 5th CoC meeting was held on 17.09.2022 wherein the applicant informed the members about re-publication of Form G and receipt of two EoIs from (i) Nakshatra Corporate Advisors Limited and (ii) Mr. Tejas Shah, After receipt of two EOI's, the Resolution Professional had sent various reminders through email and also through phone call to the Prospective Resolution Applicant("PRA") to submit the Resolution plan, but no Resolution Plan was submitted. Further, it was informed by PRA's to Resolution Professional that after due diligence of the Company and its assets they are not interested in submission of Resolution Plan.
8. Due to failure of receipt of any Resolution Plan, the CoC-in its 5th meeting held on 17.09.2022 passed the following resolution in agenda item no. 5 with 100% voting share :-

"RESOLVED THAT the members of the CoC do hereby approve to initiate liquidation process against the Corporate Debtor M/s. Yogiraj Ginning & Oil Industries Private Limited, since there is no resolution plan received from the CD"

"RESOLVED FURTHER THAT the Resolution Professional, Ms. Vineeta Maheshwari, is hereby authorised to file the application with the Hon'ble NCLT, Ahmedabad seeking order for liquidation of M/s. Yogiraj Ginning & Oil Industries Private Limited and sign all the forms and documents in this regard".

"RESOLVED THAT the approval of the members of CoC is be and hereby given to sale of the Corporate Debtor or business of Corporate Debtor as a going concern in first 90 days, from the date of liquidation order passed by

Adjudicating Authority, under clause (e) of regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016 if an order for liquidation is passed under Section 33”

9. Vide daily order dated 02.11.2022, the notice was issued to Ex-management as recorded in the daily order dated 11.04.2023, Ex-management stated that they have no objection to the proposal for liquidation.

10. In light of above facts in the present case, and as per provisions of Section 33 of Code which are reproduced for ready reference, we consider to order the liquidation of corporate debtor.

“Section- 33. Initiation of liquidation. –

*(1) Where the Adjudicating Authority, -
 (a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast-track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30;*

or

(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein, it shall -

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation;

and

(iii) require such order to be sent to the authority with which the corporate debtor is registered.

(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 creditor approved by not less than sixty-six percent of the voting share to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clause (i), (ii) and (iii) of clause (b) of Sub-Section (1) ”

11. We have considering the submissions and documents placed on record. It is noted that CoC received two EOI's but none of the PRA submitted the Resolution Plan. CoC passed the resolution for liquidation of corporate debtor with further direction that the liquidator will first explore the sale of corporate debtor or business of the corporate debtor as a 'going concern' in first 90 days under Regulation 32(e) of the IBBI (Liquidation Process) Regulation, 2016 failing which the corporate debtor will be liquidated as per provisions of the Code. We are of the view that the CoC in its commercial wisdom, has decided to take the Corporate Debtor into liquidation firstly to sell the corporate debtor or business of the corporate debtor in first 90 days as a 'going concern' under regulation 32(e) Liquidation Regulation, 2016 and else to liquidate the assets of corporate debtor. The commercial wisdom of CoC to undertake liquidator is not required to be interfered with. Hence,

we order liquidation of Yogiraj Ginning & Oil Industries Private Limited under Chapter III of Part II of the Code read with regulations framed thereunder, and direct the liquidator to comply with the provisions of the Code while carrying out the liquidation. The present application, seeking liquidation of the Corporate Debtor M/s. Yogiraj Ginning & Oil Industries Private Limited, in the manner laid down in Chapter III of Part II of the Code, is allowed.

1. The CoC has proposed name of Ms. Vineeta Maheshwari having Registration No. IBBI/IPA-001/IP-P00185/2017-2018/10364, having address at M-19-21, Metro Tower, Ring Road, Surat-395 002 to be appointed as the Liquidator, who has also consented to act as a Liquidator and filed her written consent in Form-AA. We appoint Ms. Vineeta Maheshwari, 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 stating that the corporate debtor is in liquidation in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
 - b. The liquidator to proceed with the process of liquidation in a 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.

- c. The liquidator to follow up and continue to investigate the financial affairs of the corporate debtor to determine any undervalued and preferential transactions etc.
- d. 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.
- e. 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 (Liquidation Process) Regulations, 2016.

12. 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 shall commence.

13. A copy of the order be communicated to the applicant resolution professional and the corporate debtor as well as to the liquidator above named. The liquidator is to be informed of her 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.

14. Application is allowed and disposed of in terms of above order.

SD/-

AJAI DAS MEHROTRA
MEMBER (TECHNICAL)

SD/-

DEEP CHANDRA JOSHI
MEMBER (JUDICIAL)

Nair/Abhishek LRA