



**THE NATIONAL COMPANY LAW TRIBUNAL
“CHANDIGARH BENCH, CHANDIGARH”**

IA No. 510/2023

In

CP (IB) No. 285/Chd/Hry/2020

**Under Section 9 of IBC, 2016 and
Section 33(2) of the Insolvency and
Bankruptcy Code, 2016**

In the matter of:

Sunfocus Solutions Pvt. Ltd.

...Operational Creditor

Vs.

Jewel Garments Pvt. Ltd.

.....Corporate Debtor

In the matter of IA No. 510/2023

Jaramu Ram Thakur
Resolution Professional of
Jewel Garments Private Limited
Plot No. D-190 (3rd Floor), Industrial Area, Phase 8-B,
Sector 74, Mohali-160017
Punjab

...Applicant/Resolution Professional

Order delivered on: 04.07.2023

**Coram: Hon'ble Mr. Harnam Singh Thakur, Member (Judicial)
Hon'ble Mr. Subrata Kumar Dash, Member (Technical)**

Present :

For Applicant : Mr. Atul V. Sood, Advocate

Per: Subrata Kumar Dash, Member (Technical)



ORDER

The present application is being filed by Mr. Jaramu Ram Thakur, Resolution Professional of Jewel Garments Pvt. Ltd. under Section 33(2) of Insolvency and Bankruptcy Code, 2016 ('IBC') for the initiation of the liquidation process of the Corporate Debtor.

2. It is prayed by the applicant to pass an order in terms of Section 33(2) of IBC for initiation of the liquidation process of the Corporate Debtor under Part-II of Chapter-III of IBC, pursuant to a resolution passed by CoC members in their 4th meeting dated 01.02.2023, representing 100% voting share for liquidating the Corporate Debtor and to appoint the Resolution Professional as a liquidator of the corporate debtor.

3. The brief facts of the case, as stated in the application are that:-

- i) The Corporate Insolvency Resolution Process was initiated against the Corporate Debtor by order dated 15.09.2022, and the applicant was appointed as an Interim Resolution Professional (IRP). The committee of creditors in their 1st CoC meeting dated 08.10.2022 approved the appointment of the applicant as the resolution professional.
- ii) The Adjudicating Authority directed the applicant to file progress reports for the conduct of CIRP and thereby the applicant resolution professional filed five progress reports dated 06.10.2022, 10.11.2022, 06.12.2022, 05.01.2023, and 10.02.2023 respectively.



- iii) The applicant RP submitted an invitation for Expression of Interest on 08.11.2022, in accordance with regulation 36A(1) in the prescribed Form G. The last date for submission of expression of interest was 29.11.2022. In response to the invitation for expression of interest, eight prospective resolution applicants came forward as interested buyers out of which only two submitted relevant documents in support of the eligibility. The final list of resolution applicants was issued on 16.12.2022 by the applicant-resolution professional. Thereby, the last date for submission of resolution plans was 05.01.2023.
- iv) The applicant resolution professional did not receive any plan from any prospective resolution applicants till the last date for submission of resolution plans. It is submitted that the corporate debtor was not operating and only had financial assets thereby, it was very unlikely to receive any concrete resolution plan from any prospective resolution applicants.
- v) It is further submitted that the 4th meeting of the CoC was convened on 01.02.2023 (Annexure A-1 of the application), and it was decided to liquidate the corporate debtor, and the following resolution was approved by the CoC with 100% voting share:

"Resolved That the Resolution Professional is hereby authorized to file an application under Section 33 of Insolvency and Bankruptcy Code, 2016 for the liquidation of the Corporate Debtor with the Adjudicating Authority and the fees of the liquidator shall be in accordance with the Regulation 4 (2) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations and regulation 39C & 39D, IBBI (Insolvency



Resolution Process of Corporate Persons Regulation 2016, the contribution to the liquidation expenses shall be made as per regulation 2A of the IBBI (Liquidation Process) Regulation 2016, further the resolution professional is hereby authorized to do all act deed & things as may be necessary in the above matter."

- vi) As per the submissions of the applicant, no financial institution is involved and the liquidation cost will be made out of the proceeds from the sale of the corporate debtor. The expenses of liquidation are estimated between Rs.5,00,000 to Rs.6,00,000 other than liquidator fees.

4. Now, coming to the merit of the application, before considering the prayer, we would like to refer the Sections 33(1) and (2) of IBC and the same is reproduced below:-

"Section 33(1): 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 the resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors ¹[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-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).

5. A bare perusal of the provisions shows that there are three circumstances under which the liquidation order can be passed by the Adjudicating Authority:-

- i. Before the expiry of the Insolvency Resolution Process period;
- ii. 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; and
- iii. If does not receive a resolution plan under sub-section (6) of Section 30.

6. The present application has been filed under Section 33 (2) of IBC for the initiation of the liquidation process of the corporate debtor. There is one sole member of the CoC, i.e. Ms. Komal Devi-Financial Creditor holding 100% voting share, and in the 4th Meeting of CoC held on 01.02.2023, it was resolved at Agenda Item No. 2 to liquidate the Corporate debtor by 100% voting Share. Further, the Applicant requested the CoC to make an estimation of liquidation cost, as per Regulation 39B of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. Accordingly, it was found that no financial institution is involved, and accordingly, the liquidation cost will not be shared by the member of the COC and it will be met out of the proceeds realized from the sale of the corporate debtor.



7. It is noted that the agenda for the appointment of a Resolution Professional as Liquidator has been discussed in the 4th CoC Meeting held on 01.02.2023. It has been decided to appoint the present Resolution Professional as Liquidator subject to the consent filed by the Resolution Professional. The Resolution Professional has given his written consent in Form-AA to act as a liquidator of the Corporate Debtor, which is attached as Annexure A-2 of the application.

8. After going through the facts, we are of the considered view that no useful purpose would be served by placing the corporate debtor under a lengthy liquidation process as there are no valuable assets in possession of the corporate debtor and no progress in this regard has been made since the initiation of CIRP on 15.09.2022. Thus, invoking the inherent powers under Rule 11 of NCLT Rules, 2016, we direct the liquidator to complete the liquidation process at the earliest preferably within 45 days of this order, and file an application for dissolution enclosing his final report and the compliance certificate in Form H.

9. The Law Research Associate of this Tribunal has checked the credentials of Mr. Jaramu Ram Thakur, and there is nothing adverse against him. In view of the above, we appoint Mr. Jaramu Ram Thakur Regn. No. IBBI/IPA-001/IP-P01869/2019-2020/12933 as the Liquidator. His consent letter in Form AA dated 13.02.2023 has been placed on the record.

10. In view of the satisfaction of the conditions provided under Section 33(2) of the Code, the Corporate Debtor i.e. **Jewel Garments Pvt. Ltd.** is directed to be liquidated in the manner as laid down in Chapter III of the Code.

11. Accordingly, by exercising our power under Section 33(1) pass the following order:-



- (i) The Corporate debtor is liquidated with immediate effect in the manner provided under Chapter III Part II of the IBC 2016;
- (ii) Mr. Jaramu Ram Thakur bearing Regn No. IBBI/IPA-001/IP-P01869/2019-2020/12933 Mobile No. +91-9888344644, is hereby appointed as liquidator;
- (iii) Mr. Jaramu Ram Thakur shall take over the charge of the entire records and assets of the corporate and perform his duty, as required under the Code and Regulations;
- (iv) The liquidator shall constitute a consultation committee, comprising of all creditors of the corporate debtor, at the earliest.
- (v) The Registry is directed to communicate a copy of the Order to the Liquidator;
- (vi) A copy of this order be sent by the Registry to the concerned Registrar of Companies (RoC), for updating Master Data. After updating Master Data, RoC shall send a compliance report to the Registrar, NCLT within a period of 30 days;
- (vii) The Registry and Liquidator are directed to communicate a copy of this Order to the Insolvency and Bankruptcy Board of India for their record.
- (viii) The liquidator is directed to convene a meeting of Stakeholders within 7 days of its constitution and form the opinion on the Treatment of Preferential, undervalued, and extortionate Transactions & on avoidance of transactions and file the application, if any, within 15 days of formulating the opinion.



(ix) The Liquidator is at liberty to seek any directions, if need be, from this Tribunal during the Liquidation Process.

12. Thus, IA No. 510/2023 stands allowed and disposed of.

Sd/-
(Subrata Kumar Dash)
Member (Technical)

Sd/-
(Harnam Singh Thakur)
Member (Judicial)

July 04, 2023
JGS/PRF