

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH, KERALA**

M.A. No. 7/KOB/2019
In IBA 258/CHENNAI BENCH

*(under Section 33(1)(a) of the Insolvency and Bankruptcy Code
2016)*

Order delivered on: 21.10.2019.

Coram:

Hon'ble Mr. Ashok Kumar Borah, Member (Judicial)
Hon'ble Mr. Veera Brahma Rao Arekapudi, Member (Technical)

Ravindra Chaturvedi,
Resolution Professional of Excel Glasses Limited
Address at BKC Centre,
31-E, Lakshmi Industrial Estate, New Link Road
Andheri (w), Mumbai- 400 053.

..... **Applicant**

In the matter of

**Boon Investment and Trading Company
Private Limited**

---Applicant/Financial Creditor

Vs

Excel Glasses Limited.

---Respondent/Corporate Debtor

ORDER

1. This MA arose upon the application filed by Ravindra Chaturvedi under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 for liquidation of the Corporate Debtor.

2. The brief facts of the case are that by order dated 26.03.2019 the NCLT, Chennai Bench admitted the application filed under Section 7 of IB Code, 2016 by the

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Financial Creditor ie., the Boon investment and Trading Company Private Limited against the Corporate Debtor, Excel Glasses Limited and appointed the applicant herein as the Interim Resolution Professional. In pursuance to the aforesaid order, the applicant has made announcement on 29.3.2019, in accordance with Section 15 of the Code in the newspapers Business Standard, Mangalam Daily, Free Press Journal and Navashakti Times and also on the website of the Institute of Chartered Accountants of India (ICAI) and an intimation was also sent to Insolvency and Bankruptcy Board of India (IBBI). The applicant has received claims from Financial and Operational Creditors on 30.06.2019. The applicant also filed a report of the formation of the committee of creditors (CoC) dated 22.04.2019 before this Tribunal and the first meeting of the Committee of Creditors (CoC) was held on 25.04.2019. The CoC unanimously resolved and appointed the applicant as a Resolution Professional.

As per MCA website the Corporate Debtor has their Registered Office at UDAYA NAGARPATHIRAPALLY P.O ALLEPPEY KERALA -688521. The applicant visited the office for inspection on 30.3.2019. The applicant submits that during the second meeting pf CoC held on 07.06.2019, RP has appointed M/S Jain Jagawat Kamdar & Co. Chartered Accountant as Forensic Auditors for conducting forensic audit under Section 43, Section 45, Section 50 and Section 66 of IB&C, 2016. The applicants submitted that the said auditor has submitted his forensic audit report dated 29.06.2019. The applicant further submitted that the RP has prepared and shared the information memorandum from the information collated in terms of Regulation 36 (1)

(a) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 with the members of CoC.

It is further submitted that during the 2nd CoC meeting, Form-G (Form for invitation of Expression of Interest), eligibility criteria as prescribed under Section 25 (2) (h) of Code and Bid Evaluation Matrix was approved by the CoC members for invitation of Expression of Interest for revival of the Company.

In pursuant to the resolution, the applicant made a public announcement on 10.06.2019 in Form-G under Regulation 36A (1) of the CIRP Regulations which was published in the Business Standard and Mangalam Daily Newspaper of Kerala edition. The public announcement was uploaded on the website of Corporate Debtor and the IBBI on 10.06.2019. The records of the proceedings were filed before the Tribunal on 10.06.2019.

The applicant further called the 3rd meeting of the members of CoC on 21.06.2019. It was submitted in the meeting that the no Expression of Interest was received till the date of 3rd meeting and the members resolved to further extend the time frame for invitation of Expression of Interest to create better opportunities to attract prospective resolution applicants. The applicant further made a public announcement on 23.06.2019 in Form-G under Regulation 36A (1) of the CIRP Regulations which was published in the Financial Express and Mangalam Daily Newspaper of Kerala edition. The public announcement was uploaded on the website of Corporate Debtor and the IBBI on 23.06.2019. The records of the proceedings were filed before the Tribunal on 01.07.2019.

Thereafter, 4th meeting of CoC members were called on 21.08.2019 to decide the future course of action for the Corporate Debtor and no resolution plans were received until this meeting. After due deliberation, the COC vide a 100% vote decided to liquidate the Corporate Debtor and authorise the applicant to file appropriate proceedings before this Tribunal, seeking an order of liquidation. Since the 180 days period of the CIRP expired on 23.09.2019 and no Resolution Plan has been received by the applicant in respect of the Corporate Debtor, the applicant submits that the Corporate Debtor shall be ordered and directed to be liquidated under the provisions of Section 33 (1) (a) of the I&B Code, 2016.

4. Hence the applicant filed this petition with the prayers:

- (a) Pass an order under Section 33(1)(a) of the Code for Liquidation of the Company; and
- (b) Appoint the Resolution Professional (Ravindra Chaturvedi) as Liquidator of the Corporate Debtor;

5. We have thoroughly perused all the case records including the exhibits ie., Petition under Section 7 of the Insolvency & Bankruptcy Code read with Rule 4 of Bankruptcy Rules, 2016, order passed by Hon'ble Chennai Bench of NCLT (Ann. 1), public announcement (Ann. 2), Minutes of the Frist CoC (Ext.3 (A)), Minutes of the Fourth CoC (Ext.3 (D)),

6. Section 33(2) of the Insolvency and Bankruptcy Code 2016, which is as follows:

"33. (1) Where the Adjudicating Authority, —

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(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.”

7. After considering all the above aspects, we pass the following order: -

(a) Liquidation of the Company under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 and

(b) Appointing the Resolution Professional as Liquidator of the Corporate Debtor;

8. With the above directions, this M.A 07/ KOB/ 2019 is disposed of.

Dated the 21st day of October, 2019

Sd/-
(Veera Brahma Rao Arekapudi)
Member (Technical)

Sd/-
(Ashok Kumar Borah)
Member (Judicial)

Assistant Registrar
National Company Law Tribunal
KOCHI BENCH
Kochi - 682 021

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