IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI

MA/695/2019
IN
CP/548/IB/CB/2017

Application filed under sections 33(3)&(4) of the IBC, 2016

In the matter of M/s. Naachiar Paper Boards Private Limited

M/s. City Union Bank Limited
59, Gowthampuri Nagar,
Peelamedu, Coimbatore-641004

--- Applicant/ Financial Creditor

Vs

Mr. V. Kesavan & Mrs. Brinda
Old No. 4/70, New No. 4/281,
Kattanajcheval, Thayilpatti,
Sivakasi, Virudhunagar-626128

--- Respondents/ Resolution Applicants

Order delivered on: 29.11.2019

CORAM:
B.S.V PRAKASH KUMAR, MEMBER (JUDICIAL)
S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

Counsel for the Applicant: *Shri. S. Sathiyanarayanan, Advocate*

ORDER

Per: B.S.V PRAKASH KUMAR, MEMBER (JUDICIAL)

Heard and dictated in Open Court on: 26.11.2019

It is an MA filed under Sections 33(3) & 33(4) of the Insolvency Bankruptcy Code, 2016 ("the Code") by sole Financial

Creditor/Applicant, namely, City Union Bank Limited of M/s. Naachiar Paper Boards Private Limited seeking an order for liquidation of the Corporate Debtor on the ground the Resolution Applicant failed to perform the Resolution Plan as stated in the Resolution Plan and for appointment of Mr. Chandramouli Ramasubramaniam as Liquidator of the Corporate Debtor.

2. The counsel appeared on behalf of this Applicant/Financial Creditor stated that the Promoter-Directors (Husband and Wife) of the Corporate Debtor not being hit by Section 29(A) of the Code, for it is registered as small unit under MSME Act, the plan submitted by the Promoter-Directors was approved by this Bench on 08.02.2019. In the said plan, the Resolution Applicant had proposed to bring in the CIRP costs within 30 days and ₹39Crores in various stages to settle the claim of the sole Financial Creditor and also a sum of ₹8.75Lakhs (approx.) monthly to be settled to the Operational Creditors within a period of 60 months and thereafter various sums in different time intervals.

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3. It has also been mentioned by this Financial Creditor counsel that the Resolution Applicant in the plan has also committed to bring in working capital for a total amount of ₹4Crores by means of fresh infusion on its own but whereas, instead of bringing the money as stated in the plan, these Promoter-Directors had brought only ₹80Lakhs subsequent to the approval of the Resolution Plan. This Applicant /Financial Creditor has further stated that this Resolution Applicant was supposed to bring in ₹4Crores as fresh infusion within three months from the date of approval of the Resolution Plan but as against this, he has brought only ₹80Lakhs, thereafter, he has not complied with any of the other compliances set out in the Resolution Plan.

4. This Applicant/Financial Creditor, after having waited for six months from the date of approval has reported that since these Promoter-Directors have not turned up to pay the remaining amount and take over functioning of the Corporate Debtor, this sole Financial Creditor has filed this application on 06.09.2019 seeking

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an order for liquidation of this Corporate Debtor, for this Resolution Applicant contravened the compliance of the Resolution Plan.

5. This Bench having noticed that these Promoter-Directors paid ₹80Lakhs to the Corporate Debtor, this Bench also, instead of immediately passing order in this case, waited for more than 9 to 10 adjournments expecting that these Promoter-Directors would come forward with money and take over the functioning of the Corporate Debtor, but that has not happened.

6. Looking at the attendance sheet file, it appears that these Respondents (Promoter-Directors) appeared on and off but have not come out with any concrete proposal or any promise to comply with the Resolution Plan approved by this Bench. For having already two months gone by after filing this application, we are constrained to pass orders to liquidate the Corporate Debtor under Section 33(3) of the Code by directing the erstwhile Resolution Professional ("RP") namely, Mr. Chandramouli Ramasubramaniam looking at the written consent given by him, to act as the Liquidator

of the Corporate Debtor for the purpose of liquidation of this Corporate Debtor.

7. In view of the aforesaid reasons, we hereby order for liquidation of the Corporate Debtor with the following directions:

a) This Bench hereby orders the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing a public notice stating that the Corporate Debtor is in liquidation with a direction to the liquidator to send this order to ROC with which this company has been registered.

b) The Resolution professional viz Mr Chandramouli Ramasubramaniam is hereby appointed to act as Liquidator for the purpose of liquidation of the corporate debtor, therefore all powers of the board of directors, Key managerial personnel and partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be hereby vested in the liquidator. The Personnel of the Corporate Debtor are directed to extend all co-operations to

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the liquidator as may be required in managing the affairs of the Corporate Debtor. The Insolvency Professional appointed as liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified under regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under section 53 of the Code.

c) Since this liquidation order has been passed, no suit or other legal proceedings shall be instituted by or against the Corporate debtor without prior approval of this Adjudicating Authority save and except as mentioned in sub-section 6 of section 33 of the Code.

d) This liquidation order shall be deemed to be notice of discharge to the officers, employees and workmen of the Corporate Debtor except to extent of the business of the

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Corporate Debtor is continued during the liquidation process by the Liquidator.

e) The liquidator is directed to carry the functions of the Liquidator as envisaged under the Insolvency and Bankruptcy Code, 2016 and also Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

8. The Registry is hereby directed to immediately communicate this order to the Liquidator, the Corporate Debtor, the IBBI and Concerned ROC by way of e-mail.

9. Accordingly, this **MA/965/2019 filed in CP/548/IB/CB/2017** is hereby **allowed.**

-Sd-	-Sd-
(S. VIJAYARAGHAVAN)	**(B. S.V. PRAKASH KUMAR)**
Member (Technical)	**Member (Judicial)**

VS/TJS

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Certified to be True Copy

04/12/19

N. SRIRAMASUBRAMANIAN
ASSISTANT REGISTRAR
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