IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT -II

MA No. 833/2018
In
C.P. (IB)-1198/(MB)/2017

Under Section 33(1) of the Insolvency and Bankruptcy Code, 2016

Mr. Charudutt Marathe,

(Interim Resolution Professional of M/s Indo-Krishna Greenfields Limited)

Having address at- 915, Khare Town, Dharampeth, Nagpur, Maharashtra- 440010

.... Applicant

In the matter of

Indo-Krishna Greenfields Limited

Having address at- 4th Floor, Gupta Tower, Temple Road, Civil Lines, Nagpur, Maharashtra- 440001

...Corporate Debtor

Order Delivered on :- 07/02/2024

Coram:

Mr. Anil Raj Chellan
Member (Technical)

Mr. Kuldip Kumar Kareer
Member (Judicial)

MA No. 833/2018
In
C.P. (IB)-1198/(MB)/2017

Appearances:

For the Applicant : Adv. Harsh Kesharia

ORDER

Per: - Anil Raj Chellan, Member (Technical)

1. The present Application has been preferred by the Applicant as per the provisions of Section 33 (1) of the Insolvency and Bankruptcy Code, 2016 ('the Code') for passing an order of liquidation in respect of Indo-Krishna Greenfields Limited ('the Corporate Debtor') before the expiry of Insolvency Resolution Process period of 180 days or the maximum period permitted under the Code.

Facts of the Case:-

2. This Tribunal vide its order dated 18.08.2017 initiated Corporate Insolvency Resolution Process ('CIRP') against the Corporate Debtor based on a Petition filed by the Corporate Debtor under Section 10 of the Code. Pursuant to the above, Mr. Charudatt Marathe was appointed as Interim Resolution Professional ('IRP').

3. IRP issued public announcement on 04.01.2018 inviting claims against the Corporate Debtor and stipulated 18.0.2018 as the last date for submission of claims by creditors/workmen. The Applicant states that only one claim (claim from Financial Creditor- Reliance Commercial Finance Limited) of Rs. 6,23,63,644/- was received. Thus, Committee of Creditors ('CoC') was constituted with one Financial Creditor as per the report dated 02.02.2018 filed with this Tribunal.

4. In the meeting of the CoC, the erstwhile management of the Corporate Debtor informed that the land admeasuring 1.29 hectares owned by the Corporate Debtor has been given as security to another financial institution (SBICPA Trustee Company Limited) as security for the loan granted to another group company of the Corporate Debtor. The erstwhile management further informed that there are no employees or other Operational Creditors to the Corporate Debtor.

5. The CIRP period (180 days) specified under the Code was to expire on 14.02.2018 and as there was only two days left for expiration of 180 days, CoC voted against seeking extension of CIRP period beyond 180 days, but confirmed the appointment of IRP as Resolution Professional. ('RP')

<u>Submissions of the Resolution Professional:-</u>

6. The Applicant submitted that the RP had only two days for undertaking various steps under the CIRP including calling invitations from prospective Resolution Applicants and/or receipt of Resolution Plans.

7. The Applicant further submitted that Regulation 36A (4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations') was amended w.e.f. 06.02.2018 thereby stipulating the timelines of mandatory invitation of bids and calling of Resolution Plans. As per the amended Regulation 36A (4), the invitation to the prospective Resolution Applicants should provide at least 30 days before the last date for submissions of Resolution Plans and the evaluation matrix should be disclosed to the prospective Resolution Applicants at least 15 days before the

last date for submission of Resolution Plans. However, Regulation 36A (4) specifies that the above timelines shall not be applicable to an ongoing CIRP where a period of less than 37 days is left for submission of Resolution Plans. Accordingly, the amended Regulation 36A is not applicable to the CIRP of the Corporate Debtor.

8. The Applicant submitted that the sole Financial Creditor, after discussing the situation with the erstwhile management of the Corporate Debtor expressed its willingness to go ahead with the liquidation of the Corporate Debtor.

9. The Applicant further submitted that valuation of the properties - two land parcels of the Corporate Debtor, was carried out at Rs. 122.42 lakhs by CA, Nitin Alshi, and Rs. 127.44 lakhs by CA Mahesh Laddha.

10. In the facts and circumstances of the case, the Applicant submits that Corporate Debtor is a fit case for ordering liquidation under Section 33(1) of the Code.

Analysis and decision:-

11. It is observed that CIRP was initiated by the Corporate Debtor under Section 10 of the Code on account of the default in payment to certain Financial Creditors. Though CIRP against the Corporate Debtor was commenced on 18.08.2017 only one CoC meeting was held on 04.06.2018, just few days before the expiry of the time-limit prescribed under the Code for completion of Insolvency Resolution Process. The Applicant states that he received a copy of the order initiating CIRP only on 14.01.2018. Even if it is so, there is

an unexplained delay in convening the meeting of CoC and taking various steps for resolution of the Corporate Debtor.

12. The records reveal that the Corporate Debtor has no employees and no claims were received from Operational Creditors or statutory authorities. Thus, it is clear that no operations were being carried out by the Corporate Debtor. The fixed assets owned by the Corporate Debtor has also been given as security for the loan granted to another group company of the Corporate Debtor. In the circumstances, CoC on realising the bleak chances of resolution of Corporate Debtor, voted against seeking extension of time limit for completion of Insolvency Resolution Process.

13. As per Section 33(1) of the Code, where the Adjudicating Authority does not receive a resolution plan within the time lines specified in Section 12 of the Code, the Adjudicating Authority **shall** pass an order requiring the Corporate Debtor to be liquidated in the manner laid down. Thus, the Adjudicating Authority is bound to order liquidation of the Corporate Debtor in the facts and circumstances of the case.

14. Looking at the application and averments made therein, we are of the considered opinion that this is a fit case for liquidation. We hereby order the liquidation of the Corporate Debtor with the following terms:

   a. The **Mr. Charudutt Marathe**, holding Registration **No. IBBI/IPA-001/IP-P00350/2016-2017/10651**, email id: charuduttm@gmail.com is appointed as the Liquidator in terms of Section 34 of the Code;

b. Registry is directed to communicate this Order to the Registrar of Companies, Mumbai and to the Insolvency and Bankruptcy Board of India;

c. The Order of Moratorium passed 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;

d. This Order shall be 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 is directed 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.

f. The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.

g. The Liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor if any as per law.

h. The Liquidator shall 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;

i. Copy of this Order be sent to the financial creditors, Corporate Debtor and the Liquidator for taking necessary steps.

15. The **MA No. 833/2018** filed by the RP for Liquidation of the Corporate Debtor stands **allowed accordingly in aforesaid terms.**

Sd/-	**Sd/-**
ANIL RAJ CHELLAN	**KULDIP KUMAR KAREER**
(MEMBER TECHNICAL)	**(MEMBER JUDICIAL)**