

IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT-III, SPECIAL BENCH, MUMBAI

M.A. No. 3227 of 2019

In

C.P. No. 3226 of 2018

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

In the matter of

Soham Polymers Pvt. Ltd.

... Operational Creditor

V/s.

Dex-Vin Polymers Pvt. Ltd.

... Corporate Debtor

MA No. 3227/2019

Mr. Sandeep Jawaharlal Singhal

... Applicant/
Resolution Professional

Order delivered on 17.03.2020

Coram:

Hon'ble Shri Bhaskara Pantula Mohan, Member (Judicial)
Hon'ble Shri V. Nallasenapathy, Member (Technical)

For the Applicant: Mr. Nithish Bangera, Practising Company Secretary

Per V. Nallasenapathy, Member (Technical)

ORDER

1. The Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor namely Dex-Vin Polymers Pvt. Ltd. by an order of the Adjudicating Authority dated 08.01.2019 on a Petition filed by the Operational Creditor under Section 9 of the Code, wherein Mr. Sandeep Jawaharlal Singhal, was appointed as Interim Resolution Professional (IRP). Thereafter on 14.02.2019 in the 1st Committee of Creditors (CoC) meeting Mr. Sandeep Jawaharlal Singhal, was appointed as Resolution Professional (RP).
2. The RP submits that the public announcement was made on 16.01.2019, one in English and in Hindi, fixing 29.01.2019 as the last date for submitting the claim. Subsequently, the IRP constituted the CoC.

3. The RP submits that the 2nd CoC meeting was held on 16.03.2019 wherein it was decided to appoint a Valuer. Accordingly, RP had appointed two registered valuers as required under Regulation 27 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and the Information Memorandum was prepared as provided under Regulation 36(1) of the said regulation. It is further submitted that an advertisement was issued, inviting Expression of Interest in Form G on 22.03.2019 fixing 06.04.2019 as the last date for submission of Expression of Interest by the Prospective Resolution Applicants (PRA).
4. The Resolution Professional submits that Three Expression of Interest were received by him from Prospective Resolution Applicants ("PRAs"). The PRAs were given opportunity to submit the resolution plan. The names of PRAs as follows:
 - i. Artek Surfin Chemicias Ltd.
 - ii. Meena Sharma and Laxmi Sharma (Promoters of Corporate Debtor)
 - iii. Soham Polymers Pvt. Ltd.
5. It is submitted that the CIRP period was extended by 90 days w.e.f. 07.07.2019 and the extended CIRP period ended on 04.10.2019.
6. It is submitted that Soham Polymers Pvt. Ltd. could not provide refundable deposit even after giving additional time. On 15.07.2019, one of the PRA Meena Sharma and Laxmi Sharma (Promoters of Corporate Debtor) informed RP through email about their incapability to submit the Resolution Plan. The resolution plan submitted by M/s. Artek Surfin Chemicals Ltd., when presented for voting on 09.09.2019 in the 10th CoC meeting, could get only 53.23% of vote of CoC members and hence the same had to be treated as rejected by the CoC. The CoC in the same meeting resolved to appoint Mr. Anish Gupta the Resolution professional as the Liquidator with the monthly fee of ₹1,00,000/- plus applicable expenses. Accordingly, the Resolution Professional filed this application for liquidation of the Company as provided u/s. 33 of the Insolvency & Bankruptcy Code, 2016.
7. Mr. Anish Gupta, has agreed to act as liquidator to carry on the process of liquidation and given his consent to act as Liquidator.

8. Upon hearing the submissions of the Applicant and on reading the Application and the documents enclosed therein, we are of the view that the RP has complied with the procedure laid down under the Code read with Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (Regulations). Further, the valuation report filed by the valuer has not been disputed by the CoC. On verification of the papers/ documents placed before this Bench, we are of the considered view that this is a fit case to pass liquidation order under sub-section 1 of section 33 of the Code as no resolution plan has been approved by the Adjudicating Authority and accordingly this Bench orders;
- a. That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.
 - b. That the Mr. Anish Gupta, Registration No. IBBI/IPA-002/IP-N00285/2017-18/10843, herein is hereby appointed as Liquidator as provided under Section 34(1) of the Code.
 - c. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as mentioned in the 10th CoC meeting held on 09.09.2019 the CoC have decided the "fees for conduct of the liquidation monthly fees of ₹1,00,000/-, plus applicable taxes and out of pocket expense, actual".
 - d. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.
 - e. That the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
 - f. That on having liquidation process initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the corporate debtor with prior approval of this Adjudicating Authority.
 - g. This liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the

Corporate Debtor continued during the liquidation process by the Liquidator.

9. Accordingly, this Misc. Application is hereby allowed directing the Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

Sd/-

V. NALLASENAPATHY
MEMBER (TECHNICAL)

Sd/-

BHASKARA PANTULA MOHAN
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BHASKARA PANTULA MOHAN
MEMBER (JUDICIAL)

Certified True Copy
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On 03/03/2021

Joint Registrar
National Company Law Tribunal Mumbai Bench

