

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, MUMBAI

C.P.(IB)- 3799/(MB)/2018

MA 78/2020

CORAM:

SHRI B.S.V. PRAKASH KUMAR

ACTING PRESIDENT

SHRI V. NALLASENAPATHY

MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 07.02.2020

NAME OF THE PARTIES: Responsibility Fair Agriculture Fund  
V/s  
Abhay Nutrition Pvt Ltd

Section 7 of Insolvency & Bankruptcy Code 2016.

ORDER

17. MA 78/2020 In C.P. (IB) 3799/MB/2018

This is an application filed by the RP, seeking liquidation order U/s 33 of the Code, based on resolution passed by the COC on 17.12.2019 with a voting share of 100%.

On the perusal of this application, it is evident that the CIRP was commenced on 02.04.2019 on the admission order passed on the same date, by appointing Mr. Vikas Gupta as IRP. In pursuance thereto, it appears that this IRP issued public notice on 06.04.2019 inviting claims from the creditors.

Upon receipt of the claims, the IRP collated the claims and determined the admitted claims against the company as Rs. 186.63 Crores.

Subsequently, on constitution of COC by the RP on 25.04.2019, this IRP Mr. Vikas Gupta was confirmed as RP on 30.04.2019 in the first COC meeting.

Subsequent thereto on 15.06.2019, the RP issued invitation for Expression of Interest. since nobody came forward on the invitation given by the RP, this invitation was extended on 05.07.2019, 16.07.2019 and 10.08.2019. Finally, on the extensions given, since the RP received Expression of Interest from M/s MahavIr Civil Engineering Services Pvt. Ltd., Maharashtra Oil Extraction Private Limited and Omkara ARC limited, the Resolution Professional requested the persons giving the Expression of Interest to file their Resolution Plan. Upon the said request, only one Resolution Applicant filed its Resolution Plan on 05.11.2019.

Since this Applicant having not provided the bid guarantee as sought by the Resolution Professional, the time was extended to this Resolution Applicant to meet the requirement of the guarantee but whereas this resolution applicant have not placed the guarantee as mentioned in the Request For Resolution Plan (RFRP), this Resolution Plan was rejected on the ground of non-compliance. In the meanwhile, 180 days of the CIRP period being expired, extension for the CIRP period of 90 days was granted on 24.10.2019. For no Resolution Plan in compliance with the Section 30(2) of the Code, on 17.12.2019 COC, with 100% voting approved the resolution , seeking an order from this Bench for liquidation of this Company. In the said

resolution, it has also been mentioned that, the RP has given his consent to continue as liquidator of this Corporate Debtor.

During CIRP period, this RP determined liquidation value as Rs. 44.66 Crores by taking the average of the value given by the two valuers appointed by the RP. Looking at the averments of this application, it appears that RP as well as COC put all their efforts to accept some resolution plan which is in compliance of Section 30 (2) of the Code but since no plan has given in compliance of Section 30 (2) of the code, ultimately, they pass the resolution seeking approval of Liquidation of the company from this Bench. In view of the facts afore mentioned, we are of the view that the COC in its commercial wisdom rightly decided for approval of the Liquidation of this Company.

Accordingly, we order for liquidation with direction as follows.

- a. That the Corporate Debtor is 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 under which this Company has been registered.
- b. As to the appointment of Liquidator, Mr. Vikas Gupta, Resolution Professional is appointed to act as a Liquidator of Corporate Debtor company with all powers as envisaged in the Code.
- c. On such appointment under Section 34 of the Code, all powers of the Board of Directors, key managerial personnel and the partners of the Corporate Debtor shall cease to affect and shall be vested in the Liquidator.
- d. That the personnel of the Corporate Debtor shall extend all co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.

- e. That the 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 Insolvency and Bankruptcy (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.
- f. Since this liquidation order has been passed, subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. In the event of initiation of a suit or legal proceeding by the liquidator on behalf of the corporate debtor, it may initiate such proceedings with prior approval of this Adjudicating Authority save and except as mentioned in sub-section 6 of Section 33 of the Code.
- g. This liquidation order shall be deemed to be notice of discharge to the officers, employees and workers of the Corporate Debtor except to the extent of the business of the Corporate Debtor continuing during the liquidation process by the Liquidator.
- h. Moratorium declared vide Order dated 2.4.2019 in CP No.: 3799/2018 ceased to exist.

The registry is directed to communicate this order to the Liquidator immediately.

MA 78/2020 is disposed of accordingly.

**Sd/-**  
**V. NALLASENAPATHY**  
Member (Technical)

**Sd/-**  
**B.S.V. PRAKASH KUMAR**  
ACTING PRESIDENT