(313)

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – I, CHENNAI

IA/287/CHE/2022 in IBA/911/2019

(Filed under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of NCLT Rules,2016)

In the matter of ***M/s. Shriram SEPL Composites Private Limited***

Mr. Ajay S.Jain
Resolution Professional of
M/s. Shriram SEPL Composites Private Limited
Flat – 10G, 10th Floor
Bhavya Block, Sri Mahalakshmi Utsav Apts
339, KH Road, Ayanavaram
Chennai-600 023.

... Applicant /Resolution Professional

*Order Pronounced on **28th April 2022***

CORAM:

R. SUCHARITHA, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)

For Applicant : Jayanthi K Shah, Advocate

ORDER

Per: **R. SUCHARITHA, MEMBER (JUDICIAL)**

This is an application filed by the RP of M/s. Shriram SEPL Composites Private Limited under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of NCLT Rules,2016 seeking relief as follows:

(i) To pass an order of Liquidation of the Corporate Debtor Viz, Shriram SEPL Composites Private Limited under Section 33(1)(a) of I &B Code, 2016 as unanimously resolved in the 12th CoC Meeting dated

16.02.2022 and appoint the Resolution Professional as liquidator as recommended by the Committee of Creditors

(ii) Pass such further or orders which this Hon'ble Tribunal may deem fit and proper in the circumstances of this case and thus render justice.

2. From the averments made by the Applicant, it is evident that the CIRP of the Corporate Debtor was initiated by this Tribunal and one Mr. Perumal Ulaganathan, was appointed as Interim Resolution Professional (IRP) on 23.12.2020. The public announcement calling for the claimants from the Creditors of the Corporate Debtor was done by virtue of publication dated 30.12.2020.

3. The Committee of Creditors was constituted on 14.01.2021 and pursuant to that the 1st meeting of the CoC was held on 20.01.2021 and the applicant herein was appointed as the Resolution Professional during the second meeting of the CoC which was approved by this Tribunal vide its order dated 05.03.2021 passed in IA/126/CHE/2021.

4. The applicant avers in the Application that in the CoC meeting held on 13.10.2021, the Information Memorandum was approved and based on this the Revised Expression of Interest was published on 20.10.2021, wherein the last date for submission of Resolution plan was 03.01.2022 which was extended upto

10.01.2022. In the intermittent period the applicant herein filed IA/786/CHE/2020 wherein he sought for exclusion of the lock down period and extension of the CIRP for a period of 90 days more citing COVID, which was granted by this Bench vide its order dated 05.10.2021.

5. It was further averred in the application that in response to the EoI published one Resolution Plan was received from one M/s. Vahith Information Technology Services Private Limited. In the 12th CoC Meeting held on 16.02.2022, the CoC rejected the Resolution Plan submitted owing to the following reasons:

i. Resolution Plan amount is 1.55% of the total claim by the financial creditors and less than 1% of the total claim admitted

ii. Resolution Applicant does not have prior experience to run the company as going concern

iii. Resolution plan amount is less than the liquidation value and the fair value.

It is also stated that only one investor approached the Committee of Creditors for discussion and later he was not interested and hence the plan given by him was rejected.

6. The Applicant has further averred that since there was no operations in the company for the previous two years and since the sole resolution plan which was also placed before the CoC came to

be rejected, the Applicant has moved the present Application under Section 33 of IBC, 2016.

7. It was further averred in the Application that in the 12th CoC Meeting of the Corporate Debtor which was held on 16.02.2022 it was decided that as there was no viable resolution plan and it was resolved with 100% voting rights to liquidate the Corporate Debtor under Section 33(1) (a). The above Resolution is reproduced hereunder:

> "Resolved that the application for Liquidation of the Corporate Debtor Shriram SEPL Composites Private Limited shall be filed with Hon'ble NCLT-Chennai Bench under Section 33(1)(a) of IBC, 2016 for liquidation of the Company as applicable
>
> Further Resolved that Mr Ajay S.Jain - Resolution Professional (IBBI Registration No. IBBI/IPA-001/IP-P-01684/2019-2020/12631) with valid authorization for Assignment (AFA) AA1/12631/02/191222/ 103537 valid till 19 December 2022 shall be appointed as Liquidator Under Section 34(1) of IBC, 2016 until the conclusion of liquidation of the Corporate Debtor for a remuneration of Rs.50,000 per month as per applicable rules and regulations.
>
> The Resolution Professional has submitted his written consent in Form AA to act as Liquidator for the Corporate Debtor"

8. It was further averred in the Application that the Applicant / RP consented to act as Liquidator and the proposed Liquidator, Mr. Ajay S. Jain has also filed his written consent to act as the Liquidator of the Corporate Debtor and also on verification from the IBBI Website, it is seen that the Authorization for Assignment (AFA) for the RP is valid up to 19.12.2022.

9. It was further averred in the Application that the Applicant/RP has complied Compliance Certificate in Form-H with all the mandatory requirements of CIRP of the Corporate Debtor as provided under the I&B Code, 2016 and its allied Regulations, 2016.

10. In the circumstances, we hereby appoint **Mr. Ajay S. Jain,** with Reg *No. IBBI/IPA-001/IP-P-01684/2019-2020/12631* as the Liquidator of the Corporate Debtor, to carry out the liquidation process subject to the following terms of the directions.

a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended upto date enjoined upon her.

b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.

c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority.

d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and to the Insolvency and Bankruptcy Board of India;

e) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory authorities which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.

f) The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence.

g) 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.

h) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section – 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.

i) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further report as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.

j) Copy of this order be sent to the financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor.

11. Accordingly, IA/287/CHE/2022 filed for Liquidation of the Corporate Debtor stands **allowed.**

-Sd-
SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-
R. SUCHARITHA
MEMBER (JUDICIAL)

S. Priya