

**NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – II, CHENNAI**

IA(IBC)/1263(CHE)/2021

In

IBA/1017/2019

(filed under and Sec. 33 of the Insolvency and Bankruptcy Code, 2016)

*In the matter of **M/s. Shree Ambika Sugars Limited***

Mr. Anurag Goel

Resolution Professional of

M/s. Shree Ambika Sugars Limited

... Applicant

In the matter of

Punjab National Bank

...Financial Creditor

-Versus-

M/s. Shree Ambika Sugars Limited

...Corporate Debtor

Order Pronounced on 20th June 2022

COROM

Justice (Retd.) S. RAMATHILAGAM, MEMBER (JUDICIAL)

B. ANIL KUMAR, MEMBER (TECHNICAL)

For Applicant - Mr. Anurag Goel, RP

ORDER

Per: B. ANIL KUMAR, MEMBER (TECHNICAL)

Under Consideration is an application filed by the Resolution Professional of M/s. Shree Ambika Sugars Limited seeking the following reliefs:

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- a) *That the Bench may pass orders as to Liquidate the Corporate Debtor as per section 33 of the Insolvency and Bankruptcy Code, 2016 read with regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;*

b) That the Bench may appoint the Resolution Professional, CA Anurag Goel having registration Number IBBI/IPA-001/IP-P00876/2017-2018/11460 as the Liquidator of the Corporate Debtor; and

c) To pass such other Orders or directions as this Hon'ble Bench may deem fit and proper in the facts and circumstances of the case.

2. Originally IBA/1017/2019, an application filed by the Financial Creditor viz., The Punjab National Bank under Section 7 of the Insolvency and Bankruptcy Code, 2016 was admitted by this Adjudicating Authority vide Order dated 18.12.2019 and consequently, the Corporate Insolvency Resolution Process was initiated against the Corporate Debtor and the applicant herein Mr. Anurag Goel was appointed as Interim Resolution Professional (IRP).

3. The Learned Counsel for the applicant has averred that pursuant to the Order of this Adjudicating Authority dated 18.12.2019, the Committee of Creditors (CoC) was duly constituted. Subsequent to which the 1st CoC meeting was held on 13.01.2020 wherein discussions about the general status of the CIRP including related party transactions and pending litigations were held. And the applicant herein was confirmed as the Resolution Professional by the members of the CoC.

4. The Learned Counsel for the applicant has further averred

that the CoC during their 2nd CoC meeting held on 05.02.2020 had discussed about the non-cooperation of the suspended directors considering the fact that the accounts are yet to be updated from May 2018. It was further averred that during the 3rd CoC meeting the discussions about appointment of forensic auditor were carried out. Later, during the 4th CoC meeting explanation from the erstwhile Director was sought in response to the letter received by Mr. Kamal Mukhi.

5. The Learned Counsel for the applicant has further averred that the CoC in their 5th CoC Meeting held on 22.05.2020 had discussed about the statement of SBI account received. It was further averred that in the meantime application under section 19 of IBC, 2016 was filed against the suspended directors seeking the documents and information relating to the Corporate Debtor. Later, during the 6th CoC meeting held on 10.08.2020 the applicant herein had submitted his report on avoidance transaction and had also discussed about the pending litigation along with the status of the Corporate Debtor. It was further averred that during the 7th CoC meeting held on 18.08.2020 eligibility criteria to be included in the EoI document was discussed.

6. The Learned Counsel for the applicant has further averred that the CoC in their 8th CoC Meeting held on 22.09.2020 discussions about extension of CIRP timeline were held. Further,



discussions about the pending litigation and developments after invitation for EoI were carried out.

7. The Learned Counsel for the applicant has further averred that during the 9th CoC meeting held on 15.10.2022, the applicant herein had sought extension of time for receiving EoI before the CoC informing the members of the CoC about the EoI enquires received. The CoC upon deliberation had approved extension of 7 days. Subsequently, 2nd Addendum of Form G was issued extending the last date of submission of EoI as 23.10.2020. Till the last date i.e., 23.10.2020 3 EoI's were received. It was further averred that during the 10th CoC meeting held on 03.11.2020 discussions about EoI's received and expenses were carried out.

8. The Learned Counsel for the applicant has further averred that during the 11th CoC meeting held on 11.11.2020, it was accorded by the CoC to not make any objection for the preliminary list made by the applicant herein. It was further averred that during the 12th CoC meeting held on 06.01.2021, discussions were conducted regarding the plans received and about the extension application filed.

9. The Learned Counsel for the applicant has further averred that during the 13th CoC meeting held on 21.01.2021, deliberations were carried out regarding the resolution plans



received. It was further averred that during the 14th CoC meeting held on 06.01.2021, CoC had accorded approval to file an extension application seeking extension for a period of 90 days. Subsequently, a fresh Form G was also issued by the applicant. During the 15th CoC held on 18.03.2022, since no other prospective resolution plans were received, the existing prospective resolution applicant had confirmed their intention to improvise the plan submitted.

10. The Learned Counsel for the applicant has further averred that during the 16th CoC meeting held on 17.05.2021 upon discussion and deliberations the members of the CoC had requested the prospective resolution applicants to increase the financial value of secured and unsecured creditors in the plan submitted. The prospective resolution applicants had requested three days' time to revert back on the same. It was further submitted that during the 17th CoC meeting held on 02.06.2021 the members of the CoC had requested the Resolution Professional to produce the compliance certificate under section 29A of IBC, 2016 in order to take it further to their higher authorities. It was further averred that no communication from the prospective resolution applicants was received.

11. The Learned Counsel for the applicant has further averred that during the 18th CoC meeting held on 18.06.2021, it was

brought to the knowledge of the members of the CoC that one among the prospective resolution applicants had almost increased 32-33% of the plan value. Upon deliberation, it was accorded by the members of the CoC to file an application before this Adjudicating Authority for extension and exclusion of CIRP period. It was further averred that during the 19th CoC meeting held on 14.07.2021, the resolution professional had informed the members of the CoC that despite lockdown being imposed claims are being received from farmers and ex-employees. Since final resolution plan was submitted detailed discussion regarding the plan submitted had taken place. Further, during the 20th CoC meeting, it was accorded to deliberate on the feasibility and viability in the plan submitted during the next CoC meeting.

12. The Learned Counsel for the applicant has further averred that during the 21st CoC Meeting held on 07.09.2021, certain CoC members upon discussion had requested time to obtain confirmation from their higher ends. Accordingly, the CoC had decided for extension of 30 days for the same. It was further averred that during the 22nd meeting held on 21.09.2021, the resolution plans put to vote were rejected by the CoC and had proposed liquidation of the Corporate Debtor vide subsequent voting on the proposed resolution. Further, the 23rd CoC meeting was held on 15.11.2021 resolution for appointment of Liquidator in terms of Regulation 39 was placed before the members for

consideration. The operative part of the Resolution reads as follows: -

"Resolved that due to non-acceptance of any of two resolution plans as received in the case of Shree Ambika Sugars Limited (Corporate Debtor), the Corporate Debtor is proposed to be liquidated under provision of IBC, 2016"

"Resolved that Anurag Goel, Insolvency Professional having registration number IBBI/IPA-001/IP-P00876/2017-18/11460 with IBBI, (who has been appointed as the Resolution Professional in the 1st CoC meeting of Shree Ambika Sugars Limited) be appointed as Liquidator of Shree Ambika Sugars Limited. due to non-acceptance"

13. Under the said circumstances, this Adjudicating Authority is left with no other choice than to Order Liquidation of the Corporate Debtor. Accordingly, we hereby order Liquidation of the Corporate Debtor. The applicant **Mr. ANURAG GOEL** is hereby appointed 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, viz., company-in-liquidation.

12. The application in IA(IBC)/1263/(CHE)/2021 in IBA/1017/2019 stands **Allowed** with the aforesaid terms.


ANIL KUMAR B
MEMBER (TECHNICAL)


JUSTICE (RETD.) S. RAMATHILAGAM
MEMBER (JUDICIAL)

Mohanapriya