**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI**

MA/6/IB/2019
In
CP/302/IB/CB/2018

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

Mr. Ashok Kumar Jaiswal .....Applicant
Resolution Professional
Representing Corporate Debtor
(M/s. TSN Ecotech International Private Limited)

Order delivered on 07.03.2019

CORAM:
B.S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)
S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Applicants/Petitioners: Mr. Anant Merathia, Advocate

ORDER

Per: B.S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

This is an application filed u/s 33(1) of the Insolvency & Bankruptcy Code, 2016 (the Code) seeking for liquidation of the Company as the documents provided by the Corporate Debtor were insufficient to aid in preparation of Information Memorandum or even to assist in the verification of claims submitted by the creditors, henceforth sought for the Liquidation of the Corporate Debtor basing on the Resolution CoC passed on 14.12.2018 Proposing liquidation of the Corporate Debtor.

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2. On perusal of the application filed by the Applicant, this Bench has noticed that Admission Order was passed on 22.06.2008 and the Committee of Creditors, in the 3rd meeting of Creditors dated 14.12.2018, had unanimously passed a resolution for Liquidation of the Corporate Debtor because there is no sufficient data to prepare an Information Memorandum and call for Expression of Interest from any prospective resolution applicants, therefore the revival scenario does not seem to be workable. The relevant extract of the resolution passed in the 3rd Committee of creditors meeting is as follows:

*"**RESOLVED THAT** pursuant to the provisions of Section 33(2) of the Insolvency and Bankruptcy Code, 2016 approval of the Committee of Creditors be and is hereby given for submitting an application of Liquidation to the Hon'ble National Company Law Tribunal, Chennai Bench".*

3. The RP further submitted that a further resolution was passed in 3rd Committee of Creditors meeting seeking exemption from appointing two valuers on liquidation of the Corporate Debtor, as required under Regulation 35 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, from the Hon'ble Tribunal in order to save costs, time and efforts and to take the reports submitted by the already appointed Valuers during the Corporate Insolvency Resolution Process period.

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4. In the light of the facts and circumstances as stated in the Application filed by the RP, this Adjudicating Authority deems it fit to Order liquidation of the Corporate Debtor. As regards the prayer to exempt the Liquidator from appointing two valuers as required under Regulation 35 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, since procedure is contemplated for appointment of two valuers for obtaining values, it cannot be exempted, henceforth prayer for exemption is hereby rejected. Accordingly, in exercise of powers conferred under Section 33(1)(a) of the I&B Code, 2016, we proceed to pass the order as follows:

ORDER

i. We order for liquidation of the Corporate Debtor viz., M/s. TSN Ecotech International Private Limited, which shall be conducted in the manner as laid down in Chapter III of part II of the I&B Code, 2016;

ii. As stated in Section 34(1) Where the Adjudicating Authority passes an order for liquidation of the corporate debtor under section 33, the resolution professional appointed for the corporate insolvency resolution process under Chapter II shall, subject to submission of a written consent by the resolution professional to the Adjudicating Authority in specified form, act as the liquidator for the purposes of liquidation unless replaced

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by the Adjudicating Authority under sub-section (4). We hereby appoint RP viz., Mr. Ashok Kumar Jaiswal as Liquidator, who shall issue a public announcement stating therein that the Corporate Debtor is in liquidation as recommended by the committee of creditors;

iii. The moratorium declared under Section 14 of the I&B Code, 2016, shall cease with the date of approval of this order.

iv. Copy of this Order shall be sent to the Registrar of Companies, RD, OL and the Registered Office of the Corporate Debtor;

v. As stated in Section 33(5) of the I&B Code 2016, subject to Section 52, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.

vi. We make it clear that para (v) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.

vii. In terms of Section 33(7) of the I&B Code 2016 this Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the

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Corporate Debtor is continued during the liquidation process by the Liquidator.

viii. All the powers of the Board of Directors, Key Managerial Personnel and the Partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested in the Liquidator viz., Mr. Ashok Kumar Jaiswal. In addition to this, the Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the I&B Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

ix. The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.

x. The Liquidator shall be entitled to charge such fee for the conduct of the liquidation proceedings in such a proportion to the value of the liquidation estate assets. Accordingly, the fees of the conduct of the liquidation proceedings shall be paid to the Liquidator.

xi. The Tribunal directs the liquidator to submit progress reports before this Tribunal as per Rule 15 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. As per the said rule, the liquidator is directed to submit the 1st progress report within 15 days after

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the end of the quarter in which he is appointed and subsequent progress reports within 15 days after the end of every quarter during which he acts as a liquidator.

In terms of the above, the present application **MA/6/IB/2019 In CP/302/IB/CB/2018** by the RP under Section 33(1)(a)and Section 60 of the I&B Code, 2016, for initiation of the Liquidation Proceedings against the Corporate Debtor, stands **disposed of.**

S. Vijayaraghavan

(S. Vijayaraghavan)
Member (Technical)

(B. S.V. Prakash Kumar)
Member (Judicial)

Arpan

8/3/15

ASST. REGISTRAR / ~~DEPUTY REGISTRAR~~
Certified to be True Copy NATIONAL COMPANY LAW TRIBUNAL
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