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**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
SPECIAL BENCH-II, CHENNAI**

**IA(IBC)/154(CHE)/2022**

in

**IBA/31/2020**

*(filed under Sections 33 (2) of the Insolvency and  
Bankruptcy Code, 2016)*

In the matter of **M/s. Srivatsa International Private Limited**

**NITHIYANANTHAM RAMACHANDRAN**

*Resolution Professional of*

*M/s. Srivatsa International Private Limited*

*... Applicant*

CORAM:

**JUSTICE (RETD.) S. RAMATHILAGAM, MEMBER (JUDICIAL)  
SAMEER KAKAR, MEMBER (TECHNICAL)**

*For Applicant*

*: A G Sathyanarayana, Advocate*

*Order pronounced on 25<sup>th</sup> May, 2022*

**ORDER**

***Per: SAMEER KAKAR, MEMBER (TECHNICAL)***

Under Consideration is an application filed by the Resolution Professional viz., *Mr. Nithiyantham Ramachandran*, under Section 33(2) of the Insolvency and Bankruptcy Code, 2016, (in short 'IBC, 2016').

2. The prayers made by the Applicant in the Application are as follows:-

- a. *That this Hon'ble Adjudicating Authority may be pleased to pass an order for Liquidation and Corporate Debtor namely M/s. Srivatsa International Private Limited.*
- b. *That this Hon'ble Adjudicating Authority may be pleased to pass an order by appointing Shri. Nithiyantham Ramachandran, Resolution Professional (IBBI/IPA-003/IP-*

*N000124/2017-18/11390) as the Liquidator for administering the Liquidation Process of the Corporate Debtor; and*

*c. To pass such orders or further orders which this Hon'ble Tribunal may deem to be fit and proper in the interest of justice.*

3. Originally IBA/31/2020, an application filed by the Financial Creditor viz., Ligori Valan Irudhayaraj under Section 7 of the I&B Code, 2016 was admitted by this Adjudicating Authority vide Order dated 04.03.2020 and consequently, the Corporate Insolvency Resolution Process was initiated against the Corporate Debtor and one Shri. Lakshmanan Krishnan was appointed as Interim Resolution Professional (IRP).

4. The Learned Counsel for the applicant has averred that pursuant to the Order of this Adjudicating Authority dated 04.03.2020, the Committee of Creditors (CoC) was duly constituted. Subsequent to which the 1<sup>st</sup> CoC was held on 03.09.2020 wherein discussions about the claims received and other activities of the Corporate Debtor was carried out. Meanwhile, the IRP appointed had expressed his difficulties to continue as the Resolution Professional as the Corporate Debtor is situated at Nagercoil. The CoC upon hearing the same had agreed to refer a new Resolution Professional.

5. The Learned Counsel for the applicant has further averred that the CoC during the 2<sup>nd</sup> CoC meeting held on 01.12.2020 had



proposed the name of this Applicant, as the Resolution Professional. The same was confirmed by this Adjudicating Authority vide order 29.04.2021 in IA/29(CHE)/2020.

6. The Learned Counsel for the applicant has further averred that the CoC in their 3<sup>rd</sup> CoC Meeting held on 07.06.2021 had discussed about the non-receipt of Accounts, Asset Register etc., for the period from 01.04.2018 to 03.03.2020 for which the suspended director of the Corporate Debtor had informed that he shall be able to give the same after a period of 2 weeks from the date of relaxation of Covid19 lockdown. Further, discussions were also made as to file an application for non-cooperation before the Adjudicating Authority. Subsequently, as there was no worthwhile action by the suspended director, the applicant herein had filed an application in IA/654/(Che)/2021 under section 19(2) of IBC, 2016 against the suspended director of the Corporate Debtor.

7. The Learned Counsel for the applicant has further averred that the Applicant/Resolution Professional during the 4<sup>th</sup> CoC Meeting held on 15.07.2021 had informed the CoC about the application under section 19(2) of IBC, 2016 filed and pending before this Adjudicating Authority. Later claims received to the tune of Rs. 51,32,29,342/- (Rs. Fifty One Crore Thirty Two Lakh Twenty Nine Thousand Three Hundred Forty Two Rupees Only) due



to the Financial/ Operational Creditor and Workers were discussed and the summary of the claims received is also annexed along with the instant application. Subsequently, reconstitution of voting share was also carried out.

8. The Learned Counsel for the applicant has further averred that during the 5<sup>th</sup> CoC meeting held on 09.08.2021 discussions about exclusion of lockdown period from the CIRP period was made. Subsequently, an application under section 12(2) of the IBC, 2016 was filed before this Adjudicating Authority seeking exclusion of the period between 25.03.2020 to 31.07.2021 from the CIRP timeline.

9. The Learned Counsel for the applicant has further averred that during the 6<sup>th</sup> CoC meeting held on 21.10.2021 the CoC had discussed about the non-cooperation of the Suspended director. In the meantime, the order excluding the lockdown period was passed by this Adjudicating Authority declaring 06.01.2022 as the last date of CIRP.

10. The Learned Counsel for the applicant has further averred that during the 7<sup>th</sup> CoC Meeting held on 29.12.2021, the CoC upon discussion had noted that since the documents of the Corporate Debtor is not available the Information Memorandum could not be prepared due to which Form G was not published. Further considering the inability to continue the Corporate

Debtor as a going Concern, the CoC had resolved by e-voting with a majority of 74.71% to Liquidate the Corporate Debtor considering that the Assets available are meagre to satisfy the claims received. The operative part of the Resolution reads as follows: -

*"Resolved that as per Section 33(2) of the Insolvency and Bankruptcy Code, the Corporate Debtor is to be liquidated and the Resolution Professional shall intimate the Adjudicating Authority about the decision of the Committee of Creditors and file an application praying for Liquidation of the Corporate Debtor.*

*Resolved further that the Resolution Professional shall act as Liquidator upon passing of the Liquidation Order by the Adjudicating Authority and his fee will be as per Regulation 4(2) of IBBI (Liquidation Process) Regulations, 2016."*

11. 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. NITHIYANANTHAM RAMACHANDRAN** is 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)/154/(CHE)/2022 in IBA/31/2019 stands **Allowed** with the aforesaid terms.

-Sd-  
**SAMEER KAKAR**  
MEMBER (TECHNICAL)

-Sd-  
**Justice (Retd.) S. RAMATHILAGAM**  
MEMBER (JUDICIAL)

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