IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1

ITEM No.138

IA/188(AHM)2022 in CP(IB) 401 of 2019

Order under Section 33 r.w. 34 of IB Code, 2016

IN THE MATTER OF:

Premraj Ramratan Ladda RP for Bajrang Cotgin Pvt. Ltd. **........Applicant**
V/s
Kiritkumar Bhupatlal Sejpal & Ors. **........Respondent**

Order delivered on ..04/07/2022

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

-SD-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

-SD-

MADAN B GOSAVI
MEMBER (JUDICIAL)

BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD
Court No. I

I.A. No. 188 of 2022
IN
C.P. (I.B.) No.401 of 2019

(An Application under Section 33 r.w. Section 34 of the Insolvency and Bankruptcy Code, 2016)

<u>In the matter of:</u>

1. **Mr. Premraj Ramratan Laddha,**
Resolution Professional for
M/s. Bajrang Cotgin Private Limited
Having an address at 304, Abhijit – 3,
Above Pantaloon, Mithakhali – Law
Garden Road, Ellis Bridge, Ahmedabad
Gujarat – 380 006, India.

..........Applicant

Versus

1. **Mr. Kiritkumar Bhupatlal Sejpal**

Having an address at: Flat No. A/501,
Shri Sadguru Vatika, 2 – Marutinagar,
Airport Road, Rajkot, Gujarat – 360 001.

2. **Mr. Yogeshbhai Bhupatlal Sejpal**

Having address at Awadha, Bank of Baroda
Co. Op. Society, Block No. 15, Airport Road,
Rajkot, Gujarat – 360 007.

3. **Mr. Anilkumar Bhupatlal Sejpal**

Having address at Raghunath Krupa,
3 - Jalaram, Shivnagar, B/h. Aalishan Flat,
150 Ft. Ring Road, Rajkot, Gujarat – 360 007.

4. **Mr. Nirav Kiritkumar Sejpal**

Having an address at: Flat No. A/501,
Shri Sadguru Vatika, 2 – Marutinagar,
Airport Road, Rajkot, Gujarat – 360 001.

.... Respondents

IN CP(IB) No. 401 of 2019
(An application under section 7 of the IB Code

In the matter of;

Oriental Bank of Commerce
(Now Punjab National Bank)

.....Financial Creditor

Versus

M/s Bajrang Cotgin Pvt. Ltd.

....Corporate Debtor

Order reserved on 13.06.2022

Order delivered on 04.07.2022

Coram: Madan B. Gosavi, Member (Judicial)
Kaushalendra Kumar Singh Member (Technical)

<u>Appearance:</u>

For the Applicant : Mr. Jaimin R Dave, Ld. Adv.

ORDER

1. The instant Application is filed by Mr. Premraj Ramratan Laddha the Resolution Professional for M/s Bajrang Cotgin Private Limited under Section 33 r.w. Section 34 of the Insolvency and Bankruptcy Code, 2016 (**"IB Code**") for the order of liquidation as the CoC has rejected the resolution plans submitted by all the Prospective Resolution Applicants.

2. The averments made by the applicant are summarized as under;

(i) The Corporate Debtor was admitted into Corporate Insolvency Resolution Process ("**CIRP**") vide order dated 15.03.2021 of this Adjudicating Authority and the applicant herein was appointed an Interim Resolution Professional (**"IRP"**). The IRP published Form – A for submission of claims by Creditors of the Corporate Debtor and constituted Committee of Creditor (in short **"CoC"**) comprised of a sole member viz. Punjab National Bank (Erstwhile Oriental Bank of Commerce).

(ii) The first CoC meeting was held on 12.04.2021 wherein the name of the IRP was confirmed for the Resolution Professional. The Applicant published Form – G for submission of Expression of Interest (**"EoI"**) by the Prospective Resolution Applicants. The last date of submission of the EoIs was 20.05.2021. In response to the publication of Form – G, 10 (ten) inquiries were received by the applicant from the Prospective Resolution Applicants. However, some of them could not submit the EoIs. The CoC in the 3rd meeting dated 03.06.2021 resolved to extend the date for submission of Expression of Interest, and Form – G was again published by the applicant on 04.06.2021 and the last date for submission of EoIs was extended upto 22.06.2021. Following that only one Prospective Resolution Applicant submitted EoI along with requisite documents. However, various Prospective Resolution Applicants (PRAs) had also shown their willingness for submitting of EoIs.

(iii) The CoC in the 4th meeting dated 16.07.2021, resolved to further extend the date for submission of EOIs upto 30.07.2021. The applicant again published Form – G on

17.07.2021. In the same meeting applicant appraised the CoC about the receipt of valuation reports from two independent valuers and draft transaction audit reports. Thereafter, the applicant filed an application under Sections 43, 45, 50, and 66 of the IB Code, which is pending before this Adjudicating Authority. In response to the publication of Form- G on 17.07.2021, one resolution plan was received by the applicant from the Prospective Resolution Applicant namely Mr. Ketan Shantital Dhruv jointly with Mr. Sanjay Kanaiyalal Tejura.

(iv) After the last date of submission of EOIs, one Prospective Resolution Applicant had submitted the EoI, and various Prospective Resolution Applicants also showed a willingness to submit the resolution plan. In view of the aforesaid inquiries and submissions of one EoI after the last date of submission of EoIs. The CoC in its 5th meeting dated 02.09.2021 resolved to extend the date for submission of EOIs upto 10.10.2021. Thereafter, applicant published Form - G on 03.09.2021, with a note clearly indicating that such extension was subject to the approval of this Adjudicating Authority. The CoC in that very meeting also resolved to extend the period of CIRP by 90 days beyond 180 days as CIRP was to be expired on 11.09.2021. This Adjudicating Authority vide order dated 28.09.2021 granted the extension of 90 days in IA 639 of 2021.

(v) In view of the publication of Form-G on 03.09.2021, 3 (three) resolution plans were received from the Prospective Resolution Applicants viz. (a) Sanjay Tejura and Ketan Dhruv (Jointly); (b) Malay RohitKumar Bhow; and (c) Raj Radhe Finance Limited. The CoC in its 6th meeting dated 22.11.2021 informed the applicant to ask the Prospective Resolution Applicants to improve their offer price and also asked that the

Resolution Plan should be unconditional and performance security shall be 15% of the offer price.

(vi) In the 7th CoC meeting dated 18.12.2021 and adjourned to 20.12.2021, it was resolved to extend the period of CIRP by 60 days since the evaluation and examination of the commercial viability of the received resolution plans required more time. The CoC had also decided to defer the voting on resolutions for the approval of the resolution plan or liquidation of the Corporate Debtor. This Adjudicating Authority vide order dated 10.01.2022 in IA No. 16 of 2022, allowed only 30 days to complete the CIRP process and further granted liberty to the Applicant to approach if further time is required thereby the period of the CIRP was stood extended till 26.01.2022.

(vii) The 8th CoC meeting was held on 17.01.2022, wherein the CoC decided to extend the CIRP period by further 30 days, and this Adjudicating Authority granted only two weeks to complete the CIRP process from 09.02.2022 in IA No. 71 of 2022 thereby the CIRP period was extended up to 23.02.2022.

(viii) The 9th CoC meeting of CoC was held on 18.02.2022, wherein the CoC (sole member) has considered the resolution plans submitted by the Prospective Resolution Applicants. The sole member of CoC through E-voting dated 20.02.2022 rejected all the resolution plans and passed the order of liquidation with 100% votes. The CoC has further recommended that the liquidator may first explore selling the Corporate Debtor as a going concern under clause (e)of regulation 32 of the IBBI (Liquidation Process) Regulations, 2016 (hereinafter referred to as "**Liquidation Regulations"**) and under regulation 39C of the IBBI (Insolvency Resolution Process for the

Corporate Persons) Regulations, 2016 (hereinafter referred to as **"CIRP Regulations"**). The CoC has also resolved to appoint the applicant as a liquidator.

3. This Adjudicating Authority vide order 08.03.2022, directed the applicant to produce on record the resolution of the CoC under Regulation 2A of the Liquidation Regulations for the contribution of liquidation costs. This Adjudicating Authority directed to the applicant vide order dated 09.05.2022 to get resolution from the CoC relating to the contribution of liquidation cost in case of deficiency to meet the liquidation from the assets of the Corporate Debtor and further directed that the liquidator try to sell the Corporate Debtor as a going concern.

4. In response to the aforesaid directions applicant filed a compliance application before this Adjudicating Authority on 24.05.2022 along with a copy of the 10th CoC meeting dated 16.05.2022, wherein the sole CoC member has resolved to contribute the estimated liquidation cost of Rs. 11,00,000/- for 6 (six) months under Regulation 2A of Liquidation Regulations r.w. Regulations 39(B) of the CIRP Regulations. It is also resolved by the CoC that the liquidator may first explore selling the Corporate Debtor as a going concern under Regulation 39C of the CIRP Regulations read with Regulation 32(e) of the Liquidation Regulations.

5. Heard the Ld. Counsel for the applicant and perused the material of record. It is noted that to resolve the Corporate Debtor, sufficient efforts were made by the applicant as well as the CoC. Three resolution plans were received from the Prospective Resolution Applicants but the sole member of CoC has rejected all the resolution plans submitted by the Prospective Resolution Applicants in its 9th meeting dated 18.02.2022 (through e-voting dated 20.02.2022). The

CoC in that very meeting also resolved to liquidate the Corporate Debtor by 100% vote. It is also resolved that the applicant herein be appointed as a Liquidator. A copy of the written consent of the liquidator is also available on record wherein the applicant has stated that no Disciplinary Proceeding is filed or pending against the Applicant. The CoC also passed the resolution that the liquidator may first explore selling the Corporate Debtor as a going concern under Regulation 39C CIRP Regulations read with regulation 32 (e) of the Liquidation Regulations and also passed a resolution under regulation 39B of CIRP Regulations read with regulation 2A of Liquidation Regulations to contribute estimate liquidation cost of Rs. 11,00,000/- for 6 (Six) months.

6. In view of the above observations, we are of the considered view that there is no option but to pass an order of the liquidation in view of Section 33 (2) of the IB Code as the sole member of CoC has passed a resolution to liquidate the Corporate Debtor.

7. Accordingly, we allow this present application and pass the following order;

(i) We hereby pass the order of liquidation of the Corporate M/s Bajrang Cotgin Pvt. Ltd (CIN No.U17110GJ2005PTC045566) and consequently allow IA No. 188 of 2022. The liquidation of the Corporate Debtor is effective from the date of this order.

(ii) The Moratorium declared vide order dated 15.03.2021 in CP(IB) No.401 of 2019, henceforth, cease to exist.

(iii) As per Section 34(1) of the I.B. Code, the applicant/ Resolution professional, Mr. Premraj Ramratan Laddha (Registration No. IBBI/IPA-001/IP00060/2017-18/10138 is hereby appointed as a Liquidator for the Corporate Debtor who shall complete the liquidation process as per the provision of Insolvency and Bankruptcy Code, 2016 r.w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016. He is further directed to endeavor to sell the Corporate Debtor firstly as a going concern as per the resolution passed by the CoC.

(iv) All the powers of the Board of Directors, the key managerial person(s), and the partners of the Corporate Debtor hereafter cease to exist. All these powers henceforth, vest with the Liquidator.

(v) The personnel of the Corporate Debtor is directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor, further, the Liquidator shall also provide all co-operation to a various Government agency (s)/ authority(s) in ongoing investigations/ inquiry or inquiries initiated hereafter.

(vi) The Liquidator will charge fees for the conduct of the liquidation proceedings in proportion as set out in the 9th Coc Meeting dated 18.02.2022.

(vii) From the date of this order, subject to Section 52 of the IB Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor provided that a suit or other legal proceeding may be instituted by the liquidator on behalf of the Corporate Debtor with the prior approval of the Adjudicating Authority as per sub-section 5 read with sub-section 6 of section 33 of the IB Code.

(viii) This liquidation order shall be deemed to be a notice of discharge to the officers, employees, and workmen of the Corporate Debtor except to the extent of the business of the

Corporate Debtor continued during the liquidation process by the Liquidator.

(ix) The Registry is directed to upload this order on the official website within a maximum of two working days from the date of this order. The authenticated copy of this order be also sent by the registry to the Financial Creditor, Corporate Debtor, Registrar of the Company, Resolution Professional, and Liquidator by Speed-post within one week from this order.

8. Accordingly, the present I.A. No. 188 of 2022 allowed and stands disposed of.

SD/-	**SD**
Kaushalendra Kumar Singh	**Madan B. Gosavi**
Member (Technical)	**Member (Judicial)**

Swetambary/Ramashish