

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, COURT-II**

**I.A. (I.B.C) No. 1870/KB/2023
in
CP (IB) No. 1536/KB/2019**

Phoenix Arc Private Limited

...Financial Creditor

Versus

Arambagh Hatcheries Limited

... Corporate Debtor

And

In the matter of:

Pinaki Sircar

..Applicant/ Resolution Professional

***An Application under section 33(2) of the Insolvency and bankruptcy code,
2016 for liquidation in the matter of Arambagh Hatcheries Limited .,
Corporate Debtor***

Order pronounced on: 1/05/2024

Coram:

Smt Bidisha Banerjee, Member (Judicial)

Shri D. Arvind, Member (Technical)

Appearances (through hybrid mode):

For the RP

- 1. Shaunak Mitra, Advocate**
- 2. Amandeep Singh, Advocate**
- 3. Sagar Chaurasia, Advocate**
- 4. Pinaki Sircar, RP**
- 5. Partha Ghosh, RP**

In Re Liquidation of Arambagh Hatcheries Limited.

ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. This court convened *via* hybrid mode.
2. I.A. (I.B.C) No. 1870/KB/2023 is an application filed praying for liquidation of the Corporate Debtor.

Brief facts

3. This Adjudicating Authority *vide* its order dated **13 May 2022** directed initiation of the Corporate Insolvency Resolution Process ('CIRP') of **Arambagh Hatcheries Limited** ("Corporate Debtor"), on a Petition filed by **Phoenix Arc private limited** ("Financial Creditor") against **Arambagh Hatcheries Limited** under section 7 of the Insolvency and Bankruptcy Code, 2016 (*'the Code'*) and appointed **Mr. Sanjai Kumar Gupta** as the Interim Resolution Professional ('IRP').
4. In the 1st CoC meeting held on 11 November 2022, the CoC appointed **Mr. Pinaki Sircar** as the Resolution Professional and the same was recorded by the Adjudicating Authority *vide* order dated 17 June 2022.
5. The RP states that Form G for invitation of interest of Expression of Interest on the CIRP of Corporate Debtor was published on 25 July 2022 in three newspaper and three Prospective Resolution Applicants have submitted their EOI. However, none of the aforesaid entities submitted their Resolution plan.
6. The RP again published Form G for invitation of interest of Expression of Interest on the CIRP of Corporate Debtor for the second time and was published on 31 October 2022 in three newspaper. Again several Resolution Applicant had shown their interest to submit their EOI &

In Re Liquidation of Arambagh Hatcheries Limited.
Resolution plan and submitted their EMD for same. However, again none of them submitted their Resolution plan.

7. In the 22nd meeting of CoC, the CoC asked the RP to Proceed with the Liquidation of the Corporate Debtor under section 33(2) of the IBC Code 2016 and passed the Resolution to liquidate the Corporate Debtor with 99.77% votes. The CoC has proposed the name of Decode Resolvency international Pvt Ltd, Having registration Number IBBI/IPE-0091/IPA-3/2022-2023/50006, as a Liquidator in terms of section 34 of the Insolvency and Bankruptcy Code, 2016

I.A. (IB) No. 7/KB/2024

8. This is an application filed by RP seeking liquidation of the Corporate Debtor, viz., **Arambagh Hatcheries Limited**, on the ground that there is no scope of resolution, especially in the view of the fact there is no plan received during CIRP.
9. The Applicant has sought for the following reliefs:
 - a. *To initiate the Liquidation process of the Corporate Debtor as decided by the members of the COC with voting right.*
 - b. *To appoint Decode Resolvency international Pvt Ltd, Having registration Number IBBI/IPE-0091/IPA-3/2022-2023/50006, as a Liquidator, whose name has been shortlisted by the CoC, as a Liquidator in terms of section 34 of the Insolvency and Bankruptcy Code, 2016 in view of the facts stated in the paragraph herein above.*
 - c. *And/or to pass such other order or orders as this Hon'ble Tribunal may deem fit and proper.*

Analysis and Findings

10. We have considered the submission made by the Ld. Counsel and perused the record.

In Re Liquidation of Arambagh Hatcheries Limited.

11. Section 33(2) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Debtor when the CoC with 66% approves the Liquidation of Corporate Debtor.
12. Hence, we do find merit in the prayers made in I.A. (I.B.C) No. 1870/KB/2023, and deem it fit to order liquidation of the Corporate Debtor.
13. This Bench, therefore, hereby orders as follows: -
 - a. Prayers as sought for in I.A. (I.B.C) No. 1870/KB/2023 filed by RP, is allowed and **Arambagh Hatcheries Limited.**, the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code;
 - b. **Sanjay Kumar Poddar, Phone No 9830047033, Having registration Number IBBI/IPA-001/IP-P01802/2019-2020/12759**, is hereby appointed as Liquidator is hereby appointed as Liquidator as provided under section 34(1) of the Code subject to a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which she is a professional member,
 - c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
 - d. Public Notice shall be issued in the newspapers stating that the Corporate Debtor is in liquidation.
 - e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
 - f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

In Re Liquidation of Arambagh Hatcheries Limited.

- g. On initiation of the liquidation process but subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.
- h. In accordance with section 33(7) of the Code, 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.
- i. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, within whose jurisdiction the Corporate Applicant is registered.
14. The application bearing **IA (I.B.C) No. 1870/KB/2023** shall stand **disposed of** in accordance with the above directions.
15. List the main **CP (IB) No. 1536/KB/2019** for reporting progress on **28.06.2024**.
16. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
17. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

D. Arvind
Member [Technical]

Bidisha Banerjee
Member [Judicial]

Order pronounced on the 1st day of May 2024.

NKS[LRA]