

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

IA (IB) No. 253/KB/2021
in
CP (IB) No. 1681/KB/2018

Under section 33(2) of Insolvency & Bankruptcy Code, 2016

In the matter of

Parag Sales Corporation

... Operational Creditor

Versus

HVR Projects Private Limited

... Corporate Debtor

-And-

In the matter of:

Sabir Kanti Mazumder,

Resolution Professional of HVR Projects Private Limited

... Applicant

Order reserved on : 6th December, 2021

Order pronounced on : 4th January, 2022

Coram:

Shri Rajasekhar V.K., Member (Judicial)

Shri Balraj Joshi, Member (Technical)

Appearances (through video conferencing):

For the Applicant:

1. Mr. Ankur Singhi, Adv
2. Ms. Riti Basu, Adv
3. Ms. Chandrani Das, Adv

ORDER

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In Re Liquidation of HVR Projects Pvt Ltd.
IA (IB) No. 253/KB/2021 in CP (IB) No. 1681/KB/2018

Per: Balraj Joshi, Member (Technical)

1. This court was convened via video conferencing.
2. This is an application filed by the Resolution Professional with the approval of the Committee of Creditors (CoC) seeking liquidation of the Corporate Debtor, viz., HVR Projects Private Limited [CIN: U70102WB2012PTC189246], on the ground that the CIRP period has expired and no resolution plan was approved by the Committee of Creditors ('CoC'). The Applicant has sought for the following reliefs:
 - a. *Directing that M/s HVR Projects Pvt. Ltd. Be liquidated as per the Insolvency and Bankruptcy Code, 2016 as amended from time to time.*
 - b. *Directing to issue public announcement stating that the corporate debtor is in liquidation.*
 - c. *Directing the liquidation order be sent to the appropriate authorities as it may deem fit*
3. This Adjudicating Authority *vide* its order dated 30th October 2019 on a Petition filed by Parag Sales Corporation ('operational creditor') under section 9 of the Insolvency and Bankruptcy Code, 2016 ('the Code') directed initiation of the Corporate Insolvency Resolution Process ('CIRP') against the Corporate Debtor and appointed **Mr. Sabir Kanti Mazumder** as the Interim Resolution Professional ('IRP').
4. The Applicant submits that in terms of section 15 of the Code, public announcement was made on 7th November 2019, in **Financial Express** (English)(Kolkata Edition) and **Ekdin** (Kolkata Edition) (Bengali) , **The Times of India** (English) (Nagpur Edition) and the **Maharashtra Times** (Marathi)) (Nagpur Edition) newspapers, fixing 18.11.2019 as the last date for submitting the claim. The public announcement was uploaded on the website of IBBI.
5. The Committee of Creditors (CoC) was duly constituted with seven financial creditor and the Report certifying the constitution of the CoC was filed with the Adjudicating Authority on 27th November 2019.

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6. The first meeting of the CoC was held at Mumbai on 29th November 2019. Subsequently, **Mr. Sabir Kanti Mazumder** was confirmed by the CoC as the Resolution Professional through a mail dated 10th February 2020. Same was a part of the 3rd Progress Report filed before this Tribunal on 11th February 2020.
7. The Applicant states that the publication for invitation of Expression of Interests (EOIs) in Form G was done on 19th February 2020 in Financial Express (English) (Kolkata Edition), Ekdin (Bengali) (Kolkata Edition) and The Times of India (English) (Nagpur Edition) newspapers. The CoC in its 3rd Meeting held on 13th March 2020 approved the Evaluation Matrix and RFRP for the Prospective Resolution Applicants for resolution of the Corporate Debtor.
8. It is submitted that the RP received five EOIs and last date of submission of Resolution Plan by the Resolution Applicants was fixed on 16th April 2020. However, due to the announcement of nationwide lockdown from 25th March 2020, the last date of submission of Resolution Plan was revised to 23th June 2020. Due to not receiving any resolution plans within the stipulated time and further demand from the prospective resolution Applicants for extension of time, decision to call for fresh invitation of EOIs was taken.
9. The fresh publication of Form G was made on 15th July 2020 in Financial Express (English) (Kolkata Edition), Duranta (Bengali) (Kolkata Edition), The Indian express (English) (Nagpur Edition) and Lok satta (Marathi) (Nagpur Edition). Pursuant to the publication of Form G, two EOIs were received. The last date of submitting the improved Resolution Plan was set on 18th December 2020. Accordingly, two Resolution Plans were received from the Prospective Resolution Applicants.
10. The Resolution Plans so received were put to vote before the CoC in the 7th CoC meeting held on 25th December 2020. None of the Resolution Plans were approved by the requisite majority as required under section 30(4) of the Code. Accordingly, in 8th CoC meeting held on 6th February

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2021, the Committee of Creditors approved the decision to liquidate the Corporate Debtor with 86.36% vote.

11. Hence, the RP has filed an application under section 33(2) of the Code, before the Adjudicating Authority for liquidation of the Corporate Debtor on expiry of the CIRP period.
12. The Applicant/Resolution Professional, **Mr. Sabir Kanti Mazumder** [Reg. No. IBBI/IPA-001/IP-P01161/2018-2019/11903], has agreed to act as liquidator to carry on the process of liquidation and given his consent to act as Liquidator, in terms of section 34(1) of the Code and has a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member.
13. We have considered the submission made by the learned Counsel on behalf of the Applicant/RP and perused the record.
14. Section 33(2) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Debtor where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors approved by not less than sixty-six percent of voting share to liquidate the corporate debtor
15. This Bench, therefore, hereby orders as follows: -
 - a. Prayers as sought for in **I.A. (IB) No. 253/KB/2021** filed by Mr. Mr. Sabir Kanti Mazumder, Resolution Professional of HVR Projects Private Limited, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code;
 - b. **Mr. Sabir Kanti Mazumder** [Reg. No. IBBI/IPA-001/IP-P01161/2018-2019/11903], is hereby appointed as Liquidator is hereby appointed as Liquidator as provided under section 34(1) of the Code ,

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- 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 same newspapers in which advertisements were issued earlier, i.e., **Financial Express** (English)(Kolkata Edition) and **Ekdin** (Kolkata Edition) (Bengali) , **The Times of India** (English) (Nagpur Edition) and the **Maharashtra Times** (Marathi)) (Nagpur Edition) 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.
- 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, Kolkata, within whose jurisdiction the Corporate Debtor is

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registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.

16. The application bearing **IA (IB) No. 253/KB/2021** shall stand disposed of in accordance with the above directions.
17. 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.
18. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
19. List the main **CP (IB) No. 1681/KB/2018** for reporting progress on 18/04/2022.

[Balraj Joshi]
Member [Technical]

[Rajasekhar V.K.]
Member [Judicial]

Signed on this, the 4th day of January, 2022

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