

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

IA169(KB)/2021
In
CP (IB) No.314/KB/2019

Under section 33(1) read with Section 33(2) of the Insolvency &
Bankruptcy Code, 2016

In the matter of

Arvind Industrials

...Operational Creditor

Versus

Shree Gajapati Paints Private Limited
(CIN:U39912WB2013PTC198133)

...Corporate Debtor

And

Rasik Singhania
Resolution Professional of Shree Gajapati Paints Private Limited

... Applicant

Date of hearing : 24-02-2021

Date of pronouncement of the Order : 18-03-2021

Coram : Shri Rajasekhar VK, Member(Judicial)
Shri Harish Chander Suri, Member(Technical)

5. The Committee of Creditors, in its first meeting held on 28th November, 2019, had appointed Mr. Rasik Singhania, IRP, the Applicant, as the Resolution Professional (RP).
6. In terms of section 15 of the Code, on 26.1.2020, the RP had published Form-G thrice in the newspapers with regard to Expression of Interest, firstly on 8th January, 2020, secondly on 6th February, 2020 and lastly on 9th November, 2020. In spite of the said publication, no Resolution Plan has been received by the Resolution Professional.
7. In view of the aforesaid facts, the Resolution Professional called the 8th meeting of the Committee of Creditors on 6th January, 2021, wherein the Committee of Creditors, pursuant to Section 33(2) of the Insolvency & Bankruptcy Code, 2016, had passed the resolution for initiation of liquidation against the Corporate Debtor through voting and requested the Resolution Professional to intimate the Adjudicating Authority of the decisions of the Committee of Creditors to liquidate the Corporate Debtor. The copies of the minutes of the 8th CoC is annexed with the Application and marked as Annexure-D.
8. In the said 8th meeting of the Committee of Creditors, although the resolution for initiation of Liquidation against the Corporate Debtor, was taken, fees of the Liquidator as per Regulation 4(2) of Liquidation Regulations and Estimated Liquidation cost, as per Regulation 39B, has also been approved with 100% voting share. The decision to sell the Corporate Debtor, as a going concern, has not been passed and the members of the Committee of Creditors abstained from voting as they would decide on the same at a later stage.
9. In the present case, the RP wanted to continue as the liquidator. A copy of the consent letter of the Resolution Professional, Mr. Rasik Singhania, to act as the Liquidator, is also annexed with the Application and marked as Annexure – E.

10. Considering the decision of the Committee of Creditors under Section 33(2) of the Insolvency and Bankruptcy Code, 2016, the Resolution Professional has submitted this Application and prayed for allowing the same and to pass Order of Liquidation, pursuant to Section 33(1) of the Insolvency & Bankruptcy Code, 2016, condoning the delay in filing this Application due to health issues faced by the Resolution Professional.
11. We have heard the Ld. Counsel appearing for the Applicant, as well as the Ld. Resolution Professional, appeared in person.
12. 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 CIRP but before confirmation of the Resolution Plan, intimates the Adjudicating authority of the decision of the CoC, approved by not less than sixty-six percent of the voting share, to liquidate the Corporate Debtor. In the present case, the CoC has resolved by 100% voting share to liquidate the Corporate Debtor.
13. This Bench, therefore, hereby orders as follows: -
 - a. The Application, IA169(KB)/2021, filed by Mr. Rasik Singhania, Resolution Professional of Shree Gajapati Paints 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 read with sub-section (1) thereof.
 - b. Invoking the powers conferred by Section 34(4)(c) of the Code, this Adjudicating Authority hereby appoints Mr. Rasik Singhania, Resolution Professional, having registration No., IBBI/IPA-001/IP-P00390/2017-18/10708, e-mail Id : rasik.singhania@gmail.com, Mobile No. 9433146020, 9332689898, as the Liquidator of the Corporate Debtor.
 - 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., in 'Business Standard' and 'Financial Express' (English) and 'Ekdin' and 'Aajkaal' (Bengali) of Kolkata edition of the said 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.
- 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 has been registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.

14. The Application bearing **IA169(KB)/2021** in **CP(IB)/314(KB)/2019**, shall stand disposed of, in accordance with the above directions.
15. The Company Petition, **CP(IB)/314(KB)/2019**, to come up for filing of periodical report on 20-5-2021.
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.

(Harish Chander Suri)
Member(Technical)

Rajasekhar VK
Member (Judicial)

Signed, this the 18th day of March, 2021

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