IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
DIVISION BENCH III

CA- 528/ C-III/ND/2019 in CP (IB) – 404/ND/2018 filed under Section 33 of the Insolvency and Bankruptcy Code, 2016

In the matter of Premsons Super Steel Private Ltd.

Mr. Mohit Chawla,
Resolution Professional ... *Applicant*

Order delivered on 28 of August, 2020

CORAM:

SHRI CH. MOHD SHARIEF TARIQ, HON'BLE MEMBER (JUDICIAL)

SHRI NARENDER KUMAR BHOLA, HON'BLE MEMBER (TECHNICAL)

Parties/Counsels present

For Resolution Professional : Komal Abrol, Pulkit Goyal (Advocate), Mohit Chawla

Per: NARENDER KUMAR BHOLA,

MEMBER (TECHNICAL)

Heard on 24.08.2020

ORDER

1. This relates to CA – 528/C-III/ND/2019 filed in CP (IB) – 404/ND/2018 by Mr. Mohit Chawla (hereinafter referred to as

'Resolution Professional') under Section 33(2) of the Insolvency and Bankruptcy Code, 2016. The prayer made in the Application is to pass an order of liquidation pertaining to the Corporate Debtor (CD) viz., Premsons Super Steel Private Ltd.

2. Originally CP (IB) - 404/ND/2018 filed under Section 10 of the Insolvency & Bankruptcy Code, 2016 read with Rule 7 of Insolvency and Bankruptcy Code (Application to Adjudicating Authority) Rules, 2016 by the Corporate Debtor was admitted by this Authority vide Order dated 10.12.2018, the Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor and Mr. J. Mannivannan was appointed as Interim Resolution Professional (IRP).

3. It is averred that pursuant to the Order of this Authority dated 10.12.2018, the IRP had taken over the management of the Corporate Debtor and made a public announcement on 13.12.2018 as per Regulation 6 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016, inviting the claims

from the creditors. Thereafter, a committee of creditors (CoC) was constituted with only one financial creditor with a voting share of 100%. The first meeting of CoC was held on 01.02.2019.

4. It was resolved during the first CoC meeting that the IRP is to be replaced by new Resolution Professional, Mr. Mohit Chawla. It is pertinent to state that the aforesaid decision was taken since the IRP is stationed at Chennai and the registered office of the Corporate Debtor and its factory is located at Delhi and Haryana respectively. Therefore, it may not be practically feasible for the IRP to monitor, supervise and administer the affairs of the Corporate Debtor and also for the sake of operational convenience and exigencies and also for the reasons that the member of CoC would have to incur additional cost towards travelling, boarding and other expenses for conducting the CIRP by the IRP who is stationed at Chennai.

5. The matter for replacing the IRP with Mr. Mohit Chawla was taken up by this Bench on 22.04.2019 and he was appointed as Resolution Professional in this matter vide order dated

22.04.2019.

6. The second meeting of CoC was convened by Resolution Profession on 06.05.2019. The notice was sent to the financial creditors and promoter/director of the corporate debtor. The following matters were discussed in the meeting:

i) Discussions took place on evaluation matrix for inviting resolution plan and taking note of appointment of Resolution Professional

ii) The CoC member resolved to approve the remuneration of Resolution Professional.

iii) The CoC member had discussed the appointment of an advocate for filing an application of exclusion of time under CIRP since lot of timelines provided under Regulation 40A had been missed under IBC, 2016 and it was resolved to appoint an Advocate Komal Abrol and Advocate Pulkit Goyal for filing an application for excluding certain period from CIRP.

iv) The appointment of valuers was discussed to determine the fair value and the liquidation value of the Corporate Debtor. Quotes were received from various professionals, the member of CoC appointed Mr. Sachin Goel and Ankit

Goel for Land & Building and Plant & Machinery and Mr. Birendra Mishra for Land & Building and Plant & Machinery.

v) The notice period for calling meeting of CoC was reduced from 5 days to 2 days under regulation 19(2) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

7. The third meeting of CoC was called by Resolution Professional on 31.05.2019. The notice was sent to the financial creditors and promoter/director of the corporate debtor. In the meeting the discussion took place on the appointment of professionals for conducting transaction audit of the accounts of corporate debtor and the quotes were received from various professionals and the Resolution professional stated that if any more quotes are received then the same can be circulated to the member of CoC.

8. The Fourth meeting of CoC took place on 15.07.2019. In the meeting it was discussed that an expression of Interest from Devisons Infinity Housewares was received and on

29.06.2019. The Resolution Professional received an e-mail from Devisons Infinity Housewares that they may be granted two days' time in order to submit the document, which was the last date of publishing the provisional list of resolution applicants. After due deliberations, the member decided to publish the form G for one more time so that an expression interest can be received and a resolution could be arrived at.

9. The Fifth meeting of CoC was conducted on 08.08.2019. In the meeting the specific agenda i.e., item No. 1 to discuss and vote on the liquidation of the corporate debtor was proposed. The member of CoC discussed the issue of liquidation, since no plan has been received by the Resolution Professional till date even after publishing Form G for three times. One Expression of Interest was received from Devisons Infinity Housewares when the form G was published for the second time, however, after that the aforesaid company has not come forward to submit its expression of interest again and neither of its documents have been received by the Resolution

Professional even after constant persistence by the Resolution Professional. Moreover, the period of CIRP has expired on 11.08.2019, and the corporate debtor did not have any running business operations. Therefore, in view of the facts it was unanimously resolved by CoC to liquidate the corporate debtor. In the same meeting the Resolution Professional had discussed about the transaction audit report, and various findings with regards to preferential and fraudulent transactions were discovered and it was discussed by the CoC member that an application for the same be filed before the Hon'ble Adjudicating Authority, after finalizing the prerequisites for the same.

10. The Committee Member took the decisions as follows-

(i) Resolved that the Corporate Debtor Premsons Super Steel Private Ltd., be liquidated and Mr. Mohit Chawla, Resolution Professional be and is hereby authorised to file an application with the Adjudicating Authority in this regard.

(ii) Mr. Mohit Chawla be appointed as the Liquidator of the Corporate Debtor Premsons Super Steel Private Ltd., on a consolidated remuneration as per regulation 4 (2) (b) of IBBI (Liquidation Process) Regulations, 2016.

11. Since no Resolution Plan is received by this Authority under Sub-section (6) of Section 30 of the I&B Code, 2016, before the expiry of the Corporate Insolvency Resolution Process period of 180 days, the Corporate Debtor has to be ordered for liquidation.

ORDER

12. In view of the facts and circumstances recorded by Resolution Professional in CA – 528/C-III/ND/2019 filed in CP (IB) – 404/ND/2018 and in exercise of powers conferred under Sub-Clauses (i) (ii) and (iii) of Clause (a) of Sub-Section (1) of Section 33 of the I&B Code, 2016, this Authority proceeds to pass Liquidation Order as follows:-

I. This Authority hereby orders for liquidation of the Corporate Debtor (CD) viz., M/s. Premsons Super Steel Private Ltd which shall be conducted in the manner as laid down in Chapter III of Part II of the Insolvency & Bankruptcy Code, 2016;

II. This Authority hereby appoints Mr. Mohit Chawla as Liquidator who shall issue a public announcement stating therein that the Corporate Debtor is in liquidation;

III. The moratorium declared under Section 14 of the Insolvency & Bankruptcy Code, 2016, shall cease to have effect from the date of the order of liquidation;

IV. Subject to Section 52 of the Insolvency & Bankruptcy Code, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, any suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.

V. This Authority makes it clear that Para (IV) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.

VI. This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.

VII. All the powers of the Board of Directors, Key Managerial Personnel and the Partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the Liquidator viz., Mr. Mohit Chawla, in addition to it, the Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the Insolvency & Bankruptcy Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

VIII. The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.

IX. Mr. Mohit Chawla is appointed as the Liquidator of the Corporate Debtor Premsons Super Steel Private Ltd., on a consolidated remuneration as per regulation 4 (2) (b) of IBBI (Liquidation Process) Regulations, 2016, as decided by the CoC.

X. The Registry is directed to communicate this order with immediate effect to the concerned Registrar of Companies, RD, OL, Registered Office of the Corporate Debtor and the Liquidator viz., Mr. Mohit Chawla, for information and compliance.

13. In terms of the above, CA – 528/C-III/ND/2019 filed in CP (IB) – 404/ND/2018 filed by the Resolution Professional under Section 33(2) of the Insolvency & Bankruptcy Code, 2016, for initiation of the Liquidation Proceedings against the Corporate Debtor viz., Premsons Super Steel Private Ltd. is **allowed**.

-Sd- -S.d-

(NARENDRA KUMAR BHOLA) **(CH. MOHD SHARIEF TARIQ)**

MEMBER (TECHNICAL) MEMBER (JUDICIAL)