

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH,
KOLKATA

IA No. 122/KB/2021
in
CP (IB) No.185/KB/2018

In the matter of:

Under section 33 of Insolvency & Bankruptcy Code, 2016

In the matter of:

Saint Gobain India Private Limited, a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at Sigappi Achi Building, Floor No. 7, 18/3, Rukmani Lakshmipathy Road, Egmore, Chennai – 600008.

... Operational Creditor

Versus

Glaze Infrastructure Private Limited, a company incorporated and registered under the Companies Act, 1956 and having its registered office at 591, Block-O, New Alipore, 3rd Floor from Back Gate, Kolkata 700053, West Bengal.

... Corporate Debtor

In the matter of:

Sri Krishnaswami C.V.R. Resolution Professional of Glaze Infrastructure Private Limited, having his office at Flat 2D, Second Floor, Aarbur Point, 449 NSC Bose Road, Mahamayatala, Garia, Kolkata 700084.

..... Applicant

Order reserved on: 24/02/2021

Order pronounced on: 18/03/2021

Coram:

Shri Rajasekhar V.K. : Member (Judicial)
Shri Harish Chander Suri : Member (Technical)

Appearances (through video conferencing):

Mr. Shaunak Mitra, Advocate] For Resolution Professional
Mr. Avik Chaudhuri, Advocate]

ORDER

Per Harish Chander Suri, Member (T):

1. This is an application under Section 33 of the Insolvency & Bankruptcy Code, 2016, filed by the Resolution professional upon the instructions of the Committee of Creditors (CoC) seeking liquidation of the Corporate Debtor, viz., ***Glaze Infrastructure Private Limited***, on the ground that the resolution plan submitted by the sole resolution applicant Select Products Private Limited was not approved through a vote exceeding 66% and hence there is no other alternative but to recommend for liquidation and the Committee of Creditors in its eight meeting held on 1st December, 2020 passed a resolution with 99.99% vote share to approve the liquidation of the Corporate Debtor.
2. This Adjudicating Authority *vide* its order dated 25.11.2019 on a Petition filed by Saint Gobain India Private Limited (*operational creditor*) under section 9 of the Insolvency and Bankruptcy Code, 2016 (*'the Code'*) had directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor and appointed the Applicant herein as the Interim Resolution Professional (IRP).
3. The Applicant submits that in terms of section 15 of the Code, public announcement in Form 'A' was made.
4. CoC was duly constituted and the first meeting of CoC was held on 26th December, 2019 wherein the IRP placed his profile along with his consent in Form AA for appointment as Resolution Professional. This Adjudicating

Authority vide order dated 31st December, 2020 appointed the said Interim Resolution Professional (IRP) as Resolution Professional (RP).

5. Thereafter, in the second meeting of the CoC held on 19th March, 2020 the Information Memorandum was circulated to the members of the CoC and of the suspended Board of Directors. Thereafter, on 25.03.2020, lockdown was implemented by the Central and State Governments owing to the Covid-19 pandemic.
6. At the third meeting of the CoC held on 10th July, 2020, the resolution professional kept the committee informed that in view of the disruption in normal activity due to Covid 19, the auction proposed for selling the stocks and the action to recover the debtors could not be undertaken and in view of the existing circumstances of Covid 19 fall out, he does not intend to pursue the matter and proposes to concentrate on calling for resolution plan and finalizing the same. The draft of RFRP and the evaluation Matrix was placed before the committee and it was highlighted that as per the draft, the committee is empowered to negotiate with all the resolution applicant and taking into account the importance of cash recovery a weightage at 70% was provided for upfront cash recovery. The RFRP and evaluation matrix placed was approved the committee after deliberations.
7. It was informed that the Form 'G' approved in the earlier meeting was published in the newspapers and there was no response to the EOI. Discussions were held on publishing the Form 'G' once again. The representative of SBI informed that publication of Form 'G' again without the possibility of receiving expression of interest is not a prudent decision and hence advised the RP to explore the market and provide his views. In the Fourth CoC meeting held on 7th August, 2020 the RP explained that there was a negative perception about the Corporate Debtor that he was of the view that there will not be any response even if Form 'G' is reissued. In the said meeting it is resolved to exempt the promoter of the Corporate Debtor from

the eligibility norms prescribed under RFRP in submitting the resolution plan by 7th September, 2020.

8. In the Fifth CoC meeting held on 23rd September, 2020 the Resolution Professional brought to the attention of the members the decision taken in the fourth CoC meeting to permit the Corporate Debtor to submit the resolution plan by 7th September, 2020 and the Corporate debtor through its director represented that as the tying up funds was not finalized he could not submit the resolution plan and requires time till 6th October, 2020 to submit the resolution plan. The representative of WBFC pointed out that opportunities were given to the Corporate Debtor to submit the resolution plan even after 7th September as requested by him but the results appear to be that the corporate debtor is only buying time and no further extension could be provided and it is better that further steps as envisaged in IBC is taken without any further delay.
9. In the eighth meeting of the CoC held on 1st December, 2020, it was decided that the Adjudicating Authority be requested to pass the order of liquidation in view of rejection of the resolution plan under section 31 of the IBC and the resolution professional be appointed as the Liquidator.
10. The Applicant/Resolution Professional, Mr.Krishnaswami C.V.R. (Reg. No. IBBI/IPA-001/IP-P01302/2018-2019/12217), has agreed to act as liquidator to carry on the process of liquidation and given his consent dated 19th January, 2021 to act as Liquidator, in the prescribed Form AA, in terms of section 34(1) of the Code.
11. We have considered the submission made by the Applicant/RP in person and perused the record.
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 99.99% voting share to liquidate the Corporate Debtor.

13. This Bench, therefore, hereby orders as follows: -

- a. IA No.122/KB/2021 filed by Mr.Krishnaswami, C.V.R, RP of Glaze Infrastructure 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. Mr. Krishnaswami C.V.R., [Reg. No.IBBI/IPA-001/IP-P01302/2018-19/12217, the Applicant/RP herein, is hereby appointed as Liquidator as provided under section 34(1) of the Code, subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019.
- 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, 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 been registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.

14. List the main CP on 27.04.2021 for progress report.

Harish Chander Suri
Member (Technical)

Rajasekhar V.K.
Member (Judicial)

Order dated 18th March, 2021.

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