

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT III
NEW DELHI

IA-5753/2020 filed under
Section 33 (2) of IBC, 2016
IN
CP (IB)-1413/ND/2018

In the matter of Associated Appliances Limited.

RSP Stamping Industries

.... Operational Creditor

Versus

Associated Appliances Limited

.... Corporate Debtor

In the matter of IA- 5753/2020 filed under Section 33(2)

Sandeep Kr Bhatt, RP for CD

.... Applicant

Versus

Associated Appliances Limited & Ors.

.... Respondents

Order delivered on 3rd of February, 2021.

CORAM:

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

Shri. NARENDRA KUMAR BHOLA, MEMBER (TECHNICAL)

For Applicant: Mr Sandeep Kr Bhatt (RP), Mr. Sameer Rastogi (Advocate)

ORDER

(Through Video Conferencing)

Per. CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL).

1. The Application is filed by the Resolution Professional viz., *Mr. Sandeep Kr Bhatt* (hereinafter referred as "Resolution Professional"), under Section 33 (2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "IBC, 2016") seeking liquidation of the Corporate Debtor viz., *Associated Appliances Limited*, based on the resolution passed by the Committee of Creditors in its 12th Meeting held on 24.11.2020 by 100% voting share. The other prayers made in the Application are:

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i) To appoint the liquidator as per Section 34 (1) of the IB Code.

ii) Any such Order or instructions as this Tribunal deems fit and proper in the interest of justice and equity.

2. On perusal of the Application, it appears that petition IB- 1413 (ND)/2018 was filed by the Operational Creditor viz., *RSP Stamping Industries* against the Corporate Debtor viz., *Associated Appliances Limited* (hereinafter referred as "Corporate Debtor"), under Section 9 of IBC, 2016 R/w Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 to initiate Corporate Insolvency Resolution Process (hereinafter referred as "CIRP"), to declare moratorium and to appoint Interim Resolution Professional (hereinafter referred as "IRP"). This Adjudicating Authority vide Order dated 16.04.2019, admitted the Application, initiated the CIRP against the Corporate Debtor and appointed Insolvency Professional viz., Ms. Jyoti Ranjan Tarafdar as IRP.

3. It is averred that pursuant to the Order of this Authority, the IRP made public announcement on 02.05.2019 and 03.05.2019 in newspapers namely Financial

Express, Hindustan Times (English Edition) and Jansatta, the Hindustan (Hindi Edition). The IRP collated all the claims submitted by the creditors in response to the public announcement and constituted the Committee of Creditors on 20.05.2020 (hereinafter referred as "CoC") which comprises of four members i.e., Bank of Baroda, HDFC Bank, SBFC and Reliance Commercial Financial Ltd. In the 3rd CoC meeting convened on 18.11.2019 it was resolved that the IRP to be replaced by the Resolution Professional viz., Mr. Sandeep Kr. Bhatt that was confirmed by this Authority vide Order dated 03.02.2020. The Resolution Professional appointed six registered valuers on 25.02.2020, 09.06.2020, 18.08.2020, and 10.10.2020.

4. The 6th CoC Meeting was convened on 12.06.2020 wherein the Evolution Matrix, RFRP and EOI were approved. The RP published EOI on 08.06.2020 for inviting Resolution Plans in two newspapers namely The Himachal Times (Hindi) and The Business Standard (English). Subsequently the Resolution Professional issued provisional list of Resolution Applicants on 03.07.2020 and the final list of Prospective Resolution Applicants was issued on 18.07.2020. The Information memorandum, Evaluation Matrix and Request for Resolution Plan Resolution Professional was shared with all Prospective Resolution Applicants on 20.07.2020 and one Resolution Plan was received from Mr. Akshay Sharma, the suspended director on 06.08.2020.

5. The 7th CoC Meeting was convened on 17.08.2020 wherein the Resolution Plan was opened. The 8th CoC Meeting was convened on 26.08.2020 wherein discussion took place, and the Resolution Applicant was asked to modify the terms of the Resolution Plan. The 9th CoC Meeting was held on 17.09.2020 wherein the Resolution Applicant agreed to propose enhanced offer and sought one week time for the same. The Resolution Professional received the final resolution plan on 22.09.2020 and in the 10th CoC Meeting held on 09.10.2020 the resolution plan was discussed.

6. This Authority vide Order dated 28.09.2020 excluded the lockdown period from 24.03.2020 up to 31.07.2020 with 90 days extension. One of the CoC members i.e. Bank of Baroda, had put the collateral Securities worth 12.05 Crore lying at Maruti Engineering Industries, Faridabad on auction and therefore Bank of Baroda

was asked to submit the revised claim. The CoC was reconstituted on 22.11.2020 and the Resolution Applicant submitted the final plan on 13.11.2020. The 12th CoC Meeting was convened on 24.11.2020 and the resolution plan was put to vote for approval on 04.12.2020. The Resolution Plan was not approved and the CoC approved the following resolutions by 100% voting share: -

“Resolved that no resolution plan has been approved by the CoC, hence application for Liquidation be moved to the Hon’ble NCLT by the RP and the CoC resolves to liquidate the company u/s 33 (2) of the IB Code.”

“Resolved that CMA Sandeep Kr. Bhatt working as RP of proposed to be appointed as liquidator in Associated Appliances Ltd. on a remuneration as per detail in the minutes as he has consented to work as liquidator, and he is requested to file application to the Hon’ble NCLT to fetch the order of liquidation u/s 33 of the IB Code.”

“Resolved that the estimated Liquidation cost of Rs. 21.67 Lacs is approved of which payment shall be made on actual basis and the CoC shall reimburse all cost from time to time and the fee of liquidator shall be paid @ Rs. 75000 p.m. and remaining on realization and distribution of Liquidation proceeds.”

“Resolved that CoC recommended that the liquidator may first explore sale of the corporate debtor as a going concern under clause (e) of regulation 32 of the liquidation process Regulation or sale of business of the CD as a going concern under clause (f) therefore, if an order for liquidation is passed u/s 33 of the IB Code.”

ORDER

7. In view of the facts and circumstances, this Authority is satisfied that it is a fit case for ordering liquidation of the Corporate Debtor namely, ~~Associated Appliances Limited~~ in the manner laid down in the Chapter III of Part II of IBC, 2016. Therefore, the application is **allowed** with the directions as follows: -

I. This Authority appoints the Resolution Professional **Mr. Sandeep Kr Bhatt**, who has given consent to act as a liquidator having Registration No.: IBBI/IPA-003/IP-N00038/2017-2018/10298; Address: 83 B, Pocket 4, Mayur Vihar, Phase -1, Delhi-110091; E-mail ID: skbmica@gmail.com

II. The Resolution Professional viz., **Mr. Sandeep Kr Bhatt** has declared that he is not subject to any disciplinary proceedings initiated by the Board or IP Agency and does not suffer from any disability to act as a Resolution Professional.

III. Mr. Sandeep Kr Bhatt is appointed as Liquidator in terms of Section 34 (1) of IBC, 2016 therefore, all the powers of Board of Directors, key Managerial Personnel, and partners of the Corporate Debtor, as the case may be shall cease to have effect and shall be hereby vested with the Liquidator. The Personnel of the Corporate Debtor are hereby directed to extend all corporations to the Liquidator as may be required for managing the affairs of the Corporate Debtor. The Insolvency Professional appointed as Liquidator will charge fees for the conduct of liquidation proceedings of the CD as has been decided by the COC, failing which in proportion to the value of the liquidation estate assets as specified under Regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under section 53 of IBC, 2016.

IV. Mr. Sandeep Kr Bhatt is directed to issue Public Announcement stating that the Corporate Debtor is in liquidation, in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

V. Since this Liquidation Order has been passed, no suit or other legal proceedings shall be initiated by or against the corporate Debtor without prior approval of this Adjudicating Authority save and except as mentioned in sub section 6 of the Section 33 of the Code

VI. This Authority makes it clear that Para (V) herein above shall not apply to legal proceedings in relation to such transactions as notified by Central government in consultation with any financial sector regulator.

VII. The liquidation Order shall be deemed to be the notice of discharge to the officers, employees, workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.

VIII. The liquidator is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana, and to the Insolvency and Bankruptcy Board of India.

IX. The Order of Moratorium passed under Section 14 of the IBC, 2016 shall cease to have effect from the date of the order, and that a fresh Moratorium under Section 33(5) of IBC, 2016 shall commence.

X. The Liquidator is directed to proceed with the process of liquidation in the manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant regulations.

XI. The Liquidator shall follow up and investigate the financial affairs of the corporate debtor in accordance with provisions of Section 35 (I) of the Code.

XII. The Liquidator shall also follow up the pending applications for its disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.

XIII. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.

8. In terms of the above, IA-5753/2020 filed in CP (IB)-1413/ND/2018 stands **disposed of**.

9. Order is pronounced through video conferencing.



NARENDRA KUMAR BHOLA
Member (Technical)



CH. MOHD SHARIEF TARIQ
Member (Judicial)