

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

KOLKATA

[SPECIAL BENCH]

IA (IB) No. 944/KB/2020

in

CP (IB) No.1426/KB/2018

Under section 33 of Insolvency & Bankruptcy Code, 2016

In the matter of

Dena Bank

... Financial Creditor

Versus

Anurag Multipurpose Cold Storage Private Limited

... Corporate Debtor

And

In the matter of

Pranab Kumar Chakraborty, Resolution Professional of Anurag Multipurpose Cold Storage Private Limited

... Applicant

Coram:

Shri Rajasekhar V.K., Member (Judicial)

Appearances (through video conferencing):

For the Resolution Professional

Mr. Rahul Parasrampurua, Pr. CS,

Mr. Pranab Kumar Chakraborty, Resolution Professional present in person

Order reserved on: 22.12.2020

Order pronounced on: 06.01.2021

ORDER

Per Rajasekhar V.K., Member (Judicial)

1. This court convened *via* video conferencing.
2. This is an application filed by the Resolution professional upon the instructions of the Committee of Creditors (CoC) seeking liquidation of the Corporate Debtor, *viz.*, Anurag Multipurpose Cold Storage Private Limited [CIN: U74900WB2013PTC195337], on the ground that no resolution plan had been received.
3. This Adjudicating Authority *vide* its order dated 20.08.2019 on a Petition filed by Dena Bank (*financial creditor*) under section 7 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. Sanjai Kumar Gupta as the Interim Resolution Professional (IRP).
4. The Applicant submits that the Interim Resolution Professional in terms of section 15 of the Code, public announcement was made on 23.08.2019, in *Samay Paribartan* (English) and *Aajkal* (Bengali), fixing 03.09.2019 as the last date for submitting the claim.
5. The Committee of Creditors (CoC) was duly constituted on 09.09.2019 with one Financial Creditor, and the Report certifying the constitution of the CoC was filed with the Adjudicating Authority.
6. The first meeting of the CoC was held on 16.09.2019, wherein *inter alia* resolution was passed to defer the appointment of the Interim Resolution Professional as the Resolution Professional.

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7. By an order dated 27.09.2019, this Tribunal relieved the Interim Resolution Professional and on 26.11.2019 in CA (IB) No. 1598/KB/2019, this Tribunal appointed the Applicant as the Interim Resolution Professional.
8. Thereafter, in the second meeting of the CoC meeting held on 09.12.2019. In the same meeting, the CoC approved the appointment of the Applicant as the Resolution Professional. The CoC further resolved to file an application under section 19(2) of the Code against the suspended directors and an order has been passed by this Tribunal on 23.01.2020 directing the directors and officers including the Auditor of the Corporate Debtor to cooperate with the Resolution Professional.
9. At the fifth meeting of the CoC held on 13.05.2020, the Resolution Professional informed the CoC that publication for invitation of EOI in Form G was published on 07.03.2020 and that no EOI has been received. The Resolution Professional proposed that the Corporate Debtor be liquidated. It was also resolved that the Corporate Debtor should be liquidated. The proposal was approved with 100% voting in favour. The minutes of the said meeting and the voting results have been placed on record and annexed to the IA.
10. The Applicant/Resolution Professional, Mr. Pranab Kumar Chakraborty, has disagreed to act as liquidator to carry on the process of liquidation because of his other assignments.
11. I 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 100% voting share to liquidate the Corporate Debtor.

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

- a. IA No. 994/KB/2020 filed by Mr Pranab Kumar Chakraborty, RP of Anurag Multipurpose Cold Storage 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. Ms. Sneh Maheswari [Reg. No. .IBBI/IPA-001/IP-P01751/2019-2020/12691], email i.d.: sneh.maheswari@gmail.com, is hereby appointed as Liquidator as provided under section 34(1) of the Code, subject, however, to her possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which she 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, *i.e.*, *Samay Paribartan* (English) and *Aajkal* (Bengali), stating that the Corporate Debtor is in liquidation. Additionally, the liquidator is directed to effect publications in two newspapers having wide circulation in the area in which the registered office of the Corporate Debtor is situated, *i.e.* in Murshidabad District, West Bengal.
- 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.

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- 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) of the Code, the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, Kolkata, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.
14. The application bearing **IA (IB) No. 944/KB/2020** shall stand disposed of in accordance with the above directions.
15. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Authorised Representative for information and for taking necessary steps.
16. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
17. List the main **CP (IB) No.1426/KB/2018** for reporting progress on **21.04.2021**

Rajasekhar V.K.

Member (Judicial)

Signed on this 6th day of January, 2021.