THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH
AT NEW DELHI

C.A. 1705 (PB) /2019
IN
Company Petition No. (IB)-509 (PB) /2017

In the matter of:

Mr. Reetesh Kumar Agarwal

Applicant/Resolution Professional

AND

In the matter of:

M/s Jambu Knits Private Limited

Corporate Debtor

Under Section 33 of the Insolvency and Bankruptcy Code, 2016 for liquidation of the corporate debtor

Judgment delivered on: 30.10.2019

Coram:

CHIEF JUSTICE (RTD.) M.M. KUMAR Hon'ble President

S. K. MOHAPATRA Hon'ble Member (Technical)

For the RP: Ms. Anju Bhushan Gupta, Mr. Kanishk Rana Advs for RP.
For the Respondent: Mr. Gaurav Vasudeva, Ex-director of CD

ORDER

S. K. Mohapatra, Member

1. This is an application filed by the Resolution Professional under Section 33 (1) of Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for issuance of directions for liquidation of the corporate debtor, M/s Jambu Knits Private Limited in the manner laid down under the provisions of the Code.

2. The facts in brief are that one of the financial creditors, American Express Banking Corp. had filed an application under Section 7 of the Code bearing number IB-509 (PB) /2017 for initiation of Corporate Insolvency Resolution Process against the corporate debtor, M/s Jambu Knits Private Limited. The said application was admitted on 21.08.2018 initiating Corporate Insolvency Resolution Process against the corporate debtor M/s Jambu Knits Private Limited and there in appointed Ms. Rita Gupta as Interim Resolution Professional (IRP).

3. Thereafter, in terms of Regulation 6 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) the Interim Resolution Professional made paper publication inviting claims from the creditors of the corporate debtor. In compliance of Section 21 of the Code read with Regulation 17 of the CIRP Regulations, CoC was constituted. Thereafter a report constituting CoC and the list of creditors was filed vide CA-924/2018 which was taken on record on 26.09.2018.

4. In the second meeting of the Committee of Creditors convened on 27.09.2018 it was unanimously resolved to replace the Interim Resolution Professional with the present Resolution Professional Shri Reetesh Kumar Agarwal, which was allowed by the Adjudicating Authority on 14.12.2018 under Section 22(2) of the Code.

5. It is pertinent to mention here that vide order dated 06.02.2019 Adjudicating Authority allowed the prayer for extension of Corporate Insolvency Resolution Process Period by further 90 days under Section 12(3) of the Code. In addition, time period from 01.02.2019 to 31.05.2019 was

excluded from the Insolvency Resolution Process Period on account of period consumed in litigation vide order dated 31.05.2019. It is accordingly stated that the Corporate Insolvency Resolution Process Period in the present case has expired on 28.09.2019. In this respect it can be clarified that as per 3rd proviso of sub-section (3) of Section 12 of the Code, the Corporate Insolvency Resolution Process Period in the present case has been statutorily extended by further 90 days from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019 i.e. from 16.08.2019.

6. Be that as it may it is stated that with the approval of the CoC the Resolution Professional invited Expression of Interest in terms of Regulation 36A (1) through paper publication on 23.02.2019. It is further stated in the application that the Resolution Professional did not receive any bids for resolution plan of the corporate debtor.

7. Consequently, in the 9th CoC meeting held on 02.08.2019 the CoC unanimously with 100% voting share passed resolution for Liquidation of the corporate debtor under Section 33 of the Code.

8. The applicant Resolution Professional has given his written consent to act as Liquidator in the requisite Form on 24.08.2019 in terms of regulation 3 (1) of the IBBI (Liquidation Process) Regulations, 2016. No objection was raised during hearing against the present application for liquidation of the corporate debtor, M/s Jambu Knits Private Limited in the manner laid down under the provisions of the Code. In the absence of any objection and also in the absence of any offer of resolution plan, there appears to be no infirmity in the unanimous decision of the CoC proposing for liquidation of the corporate debtor.

9. As a sequel to the aforesaid discussions and in the absence of any resolution plan despite exclusion and extension of the Insolvency Resolution Process Period and as per the unanimous decision of the Committee of Creditors, we order for the liquidation of the corporate debtor under Section 33 of the Code.

10. In the result the application is allowed by ordering liquidation of the corporate debtor, namely M/s Jambu Knits Private Limited in the manner laid down in the

Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 along with following directions:

a. Shri Reetesh Kumar Agarwal, having registration no. IBBI / IPA-001 / IP-N00878 / 2017-18 / 11475, is appointed as Liquidator in terms of Section 34(1) of the Code.

b. Shri Reetesh Kumar Agarwal, 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;

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

d. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;

e. 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.

f. The liquidator shall follow up and investigate the financial affairs of the corporate debtor in accordance with provisions of Section 35 (1) of the Code.

g. 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.

h. 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.

i. Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator for taking necessary steps.

j. C.A. 1705 (PB) /2019 filed in IB 509 (PB) / 2017 is disposed of in the aforesaid terms.

Sd/-

(M.M. KUMAR)
PRESIDENT

Sd/-

(S.K. MOHAPATRA)
MEMBER (TECHNICAL)

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