

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

IA (IB) No. 1299/KB/2020
In
CP (IB) No. 1369/KB/2018

In the matter of
Under section 33 of Insolvency & Bankruptcy Code, 2016
And

In the matter of:
Sydarshan Agencies Private Limited

... Financial Creditor

Versus

LTS Plastics (India) Private Limited

... Corporate Debtor

And

In the matter of:
Sanjeev Jhunjunwala, Resolution Professional of LTS Plastics (India) Private Limited.

... Applicant

Coram:

Shri Rajasekhar V.K., Member (Judicial)

Shri Harish Chander Suri, Member (Technical)

Appearances (through video conferencing):

For the Applicant

Mr. Rahul Parasrampur, Pr. C.S.

Resolution Professional

Mr. Sanjeev Jhunjunwala

For the suspended Board of Director

Mr. Shaleen Dubey, Advocate

Order reserved on: 25.02.2021
Order pronounced on: 18.03.2021

ORDER

Per Harish Chander Suri, Member (Technical)

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., LTS Plastics (India) Private Limited [CIN: U25209WB1997PTC085891], on the ground that the resolution plan received was rejected.
3. This Adjudicating Authority *vide* its order dated 09.08.2019 on a Petition filed by the Sydarshan Agencies Private Limited (*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 Hrishikesh Das Gupta as the Interim Resolution Professional (*IRP*).
4. The Applicant submits that in terms of section 15 of the Code, public announcement was made on 12.08.2019, in *Financial Express* (English) and *Ekdin* (Bengali) of Kolkata Edition of the said newspapers, fixing 23.08.2019 as the last date for submitting the claim.
5. The Committee of Creditors (*CoC*) was duly constituted with one Financial Creditor, and the Report certifying the constitution of the CoC was filed with the Adjudicating Authority on 29.08.2019.
6. The first meeting of the CoC was held on 06.09.2019, wherein resolution was passed to replace the IRP and appoint the Applicant as the Resolution Professional (*RP*). The appointment of the Applicant as RP was confirmed by the Adjudicating Authority *vide* order dated 24.10.2019 in I.A. (IB) No. 1264/KB/2019.
7. The IRP published invitation for EoI on 04.10.2019, in *Financial Express* (English) and *Aajkal* (Bengali) of Kolkata Edition of the said newspapers, fixing 24.10.2019 as the last date for submitting EoIs. After the appointment of the Applicant, the Applicant with the approval of the CoC extended the time of EoI and publication was made in *Financial Express* (English) and *Aajkal* (Bengali) of Kolkata Edition on 30.10.2019 and the last date of receipt of EoI was fixed at 08.11.2019. The time for extension of EoI was further extended to 01.01.2020 and publication was done on 18.12.2019 in *Financial Express* (English) and *Ekdin* (Bengali) of Kolkata Edition. RP made further publication on 03.07.2020 inviting EoI in *Financial Express* (English) and *Aajkal* (Bengali) of Kolkata Edition fixing 17.07.2020 as the last date for submitting EoIs.

8. Two resolution plans were received out of which one was withdrawn. The Resolution Plan of Royal Touch Fablon Pvt. Ltd. was discussed in the 15th CoC meeting. The said Resolution Plan was rejected by the CoC in its 17th meeting held on 20.10.2020 by 100% voting share.
9. The CoC in its 17th meeting resolved to proceed for liquidation of the Corporate Debtor by 100% voting share and resolved to appoint the Applicant as the Liquidator.
10. The Applicant/Resolution Professional, Mr. Sanjeev Jhunjunwala [Reg. No. IBBI/IPA-001/IP-P00325/2017-18/10595], has agreed to act as liquidator to carry on the process of liquidation and given his consent 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 100% voting share to liquidate the Corporate Debtor.
13. This Bench, therefore, hereby orders as follows: -
 - a. IA No. 1299/KB/2020 filed by Mr Sanjeev Jhunjunwala, RP of LTS Plastics (India) 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. Sanjeev Jhunjunwala [Reg. No. IBBI/IPA-001/IP-P00325/2017-18/10595]**, 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, *i.e.*, *Financial Express* (English) and *Ekdin* (Bengali) of Kolkata Edition, 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 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. 1299/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. Counsel 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. 1369/KB/2018** for reporting progress on **21.06.2021**.

Harish Chander Suri
Member [Technical]

Rajasekhar V.K.
Member [Judicial]

18.03.2021

GGRB[LRA]