

NATIONAL COMPANY LAW TRIBUNAL

KOCHI BENCH

IA/160/KOB/2020

In

TIBA/08/KOB/2019

(Under Section 33(1) of IBC, 2016)

Order delivered on 15th Oct 2020

Coram:

Hon'ble Shri Ashok Kumar Borah, Member (Judicial)

Applicant:

**Shri R. Aravindakshan Nair
Insolvency Professional,
Lake View Ayurvedic Resort and Research Centre Pvt Ltd
Having Office at Ashadha (Kuttara),
Cheruthana Post, Karuvatta,
Karthikapally, Alleppey 690 517
(Resolution Professional)**

In the matter of

Kerala State Industrial Development Corporation : Financial Creditor

Versus

Lake View Ayurvedic Resort & Research Centre Pvt Ltd. : Corporate Debtor

Parties/Counsel present (through video conference)

Counsel for the applicant / RP : Shri Sojan James, Advocate

1. This order has arisen out of the IA/160/KOB/2020 filed by the Resolution Professional under Section 33(1) of IBC, 2016

2. The application for Corporate Insolvency Resolution Process filed by Kerala State Industrial Development Corporation Limited under Section 7 of the Insolvency and Bankruptcy Code read with Rule 4 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016 was admitted by this Tribunal on 6th November 2019 and the applicant was appointed as the Interim Resolution Professional.

3. It is stated in the application that Committee of Creditors was constituted and the First COC was held on 5.12.2019. The COC recommended the IRP to be continued as RP.

4. Public Notice was issued by RP for inviting the claims. The report on constitution of CoC was filed before this Tribunal. The RP received four claims from creditors (2 financial creditors and 2 operational creditors), totalling to a sum of Rs.68.53 crores. The Kerala State Co-operative Bank Ltd had a voting right of 72.85% for an admitted claim of 49.92 crores and the KSIDC had a voting right of 27.15 % for an admitted claim of Rs.18.61 crores.

5. The RP appointed two registered valuers for valuation of the assets of the Corporate Debtor.

6. The Resolution Professional published the Expression of Interest on 16.1.2020 in Mathrubhoomi (Malayalam daily) and in Business Line Kerala Edition (English) and also on the website of IBBI fixing last date of receipt of EOI as 15.02.2020. But no response was received against that. So the date of receipt of EOI was extended upto 26.03.2020 with proper advertisement. Meanwhile nationwide lock down was declared on 25.03.2020, thereby the activity under CIR Process became stand still.
7. As per the resolution passed in the 5th COC meeting on 26.09.2019, the last date for submission of EOI was further extended up to 03.07.2020. But only one response was received up to 03.07.2020. The said Resolution Applicant was given enough time to submit the resolution plan. But no resolution plan has been submitted by them even up to the extended date.
8. Consequently in the 8th CoC meeting held on 23rd September 2020, the COC by 100% voting has passed a resolution to liquidate the Corporate Debtor, which reads as follows:

“The COC meeting of the Lake View Ayurvedic Resort and Research Centre Pvt Ltd held on 22.09.2020 at RP’s Office at Ashadha, Kuttara, Cheruthana, Karthikappally Taluk, Alleppey District resolved to apply under Section 33(1) of the IBC code to the Adjudicating Authority for liquidation of the Lake View Ayurvedic Resort and Research Centre Pvt Ltd. It was also resolved request the Hon’ble NCLT Bench Kochi to appoint the RP as the Liquidator of the Lake View Ayurvedic Resort and Research Centre Pvt Ltd. The fees payable for the Liquidator is fixed at 0.99% of the realized/distributed amount”

9. Accordingly, the Resolution Professional vide this IA submitted his application before this Bench with the prayer to order Liquidation of the Corporate Debtor and consequently appoint the Resolution Professional as the Liquidator of the Corporate Debtor as per Sections 33(1) read with Section 34(1) of the Code.
10. The consent of the Resolution Professional in Form 2 to accept appointment as the Liquidator if the Adjudicating Authority passes an order for Liquidation of the Corporate Debtor, is on record.
11. After hearing the learned counsel for the Resolution Professional and also thoroughly perusing the whole case records including the Resolution passed in the 8th CoC meeting held on 23.09.2020, the following Order is passed:

O R D E R

- (i) The Corporate Debtor M/s. Lake View Ayurvedic Resort and Research Centre Pvt Ltd is hereby put under liquidation with immediate effect under Section 33(1) of IBC, 2016.
- (ii) The Resolution Professional Shri R.Aravindakshan Nair, Reg.No.IBBI/IPA-003/IP-N 00027/2017-18.10187, Ashadha, Kuttara,

Cheruthana, Karthikappally Taluk, Alleppey District is hereby appointed
as Liquidator of the Corporate Debtor under Section 34 of IBC, 2016.

- (iii) The Liquidator is directed to adhere to Section 33(1) (ii) & (iii) and discharge his powers and duties as specified under Section 35 to 41 of IBC, 2016 and meticulously adhere to the Rules and Regulations issued by IBBI in this regard from time to time.

IA/160//KOB/2020 in TIBA/08/KOB/2019 stands disposed of as above.

Dated this the 15th day of October 2020

Sd/-

Ashok Kumar Borah
Member (Judicial)