

**THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, DELHI
BENCH III**

CA/767/C-III/2019 in **CP/IB/690/ND/2018** filed under Section 33(2)
of the Insolvency and Bankruptcy Code, 2016

In the matter of M/S. BM Pipes Private Limited

Mr. Ashok Kumar Juneja,

Resolution Professional

...Applicant

Order delivered on 30th of October, 2019

CORAM:

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

K.K.VOHRA, MEMBER (TECHNICAL)

For Resolution Professional: Mr. Ashok Kumar Juneja (Advocates)

ORDER

Per: K.K. VOHRA, MEMBER (T):

1. This relates to CA-767/C-III/ND/2019 filed in IB/690/ND/2018 by Mr. Ashok Kumar Juneja (hereinafter referred to as 'Resolution Professional')

- under Section 33(2) of the Insolvency and Bankruptcy Code, 2016. The prayer made in the Application is to pass an order of liquidation pertaining the Corporate Debtor (CD) viz., M/s. MAS Project Engineers Private Limited.
2. Originally IB/690/ND/2018 filed under Section 10 of the I & B Code, 2016 by the CD was admitted by this Authority vide Order dated 16.04.2019, the CIR Process was initiated against the CD and the Applicant viz., Mr. Ashok Kumar Juneja was appointed as Interim Resolution Professional (IRP).
 3. It is averred that the "Company under Liquidation" was incorporated as a Private Limited Company in consonance with the provisions of Companies Act, 1956 and has its registered office at 1st Floor, Neelkanth Chambers-IV, Plot No. 6, Local Shopping Complex, Rishabh Vihar, New Delhi - 110092.
 4. Pursuant to the Order of this Authority dated, 16.04.2019 the IRP had taken over the management of the CD and had issued the Newspaper Publication dated 21.04.2019 in two editions one in English and another in vernacular as per Regulation 6(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016, inviting the claims from the creditors. After verification of the claims received, the IRP constituted the Committee of Creditors (CoC). In the 1st meeting of the CoC held on 15.05.2019, the Applicant viz., Mr. Ashok Kumar Juneja was appointed as Resolution Professional (RP).
 5. RP had prepared Information Memorandum under Section 29 of the Code, 2016 read with Regulation 36 of the IBBI (Insolvency Resolution Process

for Corporate Person) Regulations, 2016. The RP has appointed registered valuers for the valuation of assets of the Corporate Debtor.

6. The RP appointed M/s. VMRS & Associates, Chartered Accountants, as Forensic Auditor w.e.f. 03.08.2019 to ascertain whether the CD resorted to transactions which could be covered under Sections 43, 45, 50 and/or 66 of the Insolvency & Bankruptcy Code, 2013. A separate application has been filed in this regard seeking directions of this Hon'ble Bench.
7. A publication was made on in Form- G, inviting Expression of Interest on 03.07.2019. The following parties requested for obtaining Information Memorandum and Request for Resolution Plan (RFRP):

- i.ASC Consulting Pvt. Ltd. Noida
- ii.Tricolite Electrical Industries Ltd., New Delhi
- iii.CTM Engineering, Noida
- iv.Prudent ARC Ltd., Mumbai

8. Thereafter, the RP advised them to submit confidential undertaking. After receiving the confidential undertaking the RP had forwarded to them Information Memorandum and RFRP containing inter- alia Eligibility Criteria and Evaluation Matrix but no response and/ or Resolution Plan was received from any of the aforesaid parties till the last date of submission i.e. 01.09.2019 or thereafter. As on date, there are 19 members of COC including one representative elected by Employees.

9. In the 3rd meeting of the CoC it was resolved as under-

“Resolved that consent of the Members of the COC of the CD be and hereby accorded to proceed for Liquidation of the CD i.e. M/S MAS PROJECT

ENGINEERS PRIVATE LIMITED under Section 33 (2) of the insolvency and Bankruptcy Code, 2016, subject to the approval of the Adjudicating Authority.”

10. Since no Resolution Plan is received by this Authority under Sub-section (6) of Section 30 of the I & B Code, 2016, before the expiry of the Corporate Insolvency Resolution Process period of 180 days, the CD has to be ordered for Liquidation. The IRP is willing to be appointed as the Official liquidator and his written consent to act as the RP to act as Liquidator dated 12.10.2019 has been annexed.

ORDER

12. In view of the facts and circumstances recorded by RP in CA/767/C-III/2019 filed in CP/IB/690/ND/2018 and in exercise of powers conferred under Sub-Clauses (i) (ii) and (iii) of Clause (a) of Sub-Section (1) of Section 33 of the I&B Code, 2016, this Authority proceeds to pass Liquidation Order as follows:-
 - I. This Authority hereby orders for liquidation of the CD viz., M/s. MAS Project Engineers Private Limited which shall be conducted in the manner as laid down in Chapter III of part II of the I&B Code, 2016;
 - II. This Authority hereby appoints Mr. Ashok Kumar Juneja having Registration Number (IBBI/IPA-002/IP-N00117/2017-18/10286) as the Company Liquidator who shall issue a public announcement stating therein that the CD is in liquidation;

- III. The moratorium declared under Section 14 of the I & B Code, 2016, shall cease to have effect from the date of the order of liquidation;
- IV. Subject to Section 52 of the I & B Code, 2016, no suit or other legal proceedings shall be instituted by/or against the CD. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the CD, with the prior approval of this Authority.
- V. This Authority makes it clear that Para (IV) hereinabove shall not apply to legal proceedings in relation to such transactions as notified or to be notified by the Central Government in consultation with any financial sector regulator.
- VI. This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the CD, except when the business of the CD is continued during the liquidation process by the Liquidator.
- VII. All the powers of the Board of Directors, Key Managerial Personnel and the Partners of the CD, as the case may be, shall cease to have effect and shall be vested with the Company Liquidator viz., Mr. Ashok Kumar Juneja. In addition to this, the Company Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the I&B Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- VIII. The personnel of the CD shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the CD.

- IX. The Company Liquidator shall be entitled to charge such fees for the conduct of the liquidation proceedings and in such a proportion to the value of the liquidation estate assets as specified under Regulation 4 (2) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- X. The Registry is directed to communicate this order with immediate effect to the concerned Registrar of Companies, RD, OL, Registered Office of the CD and Company Liquidator viz. Mr. Ashok Kumar Juneja, for information and compliance.

13. In terms of the above, CA/767/C-III/ND/2019 filed in CP/IB/690/ND/2018 by the RP under Section 33(2) of the I & B Code, 2016, for initiation of the Liquidation Proceedings against the CD viz., M/s. MAS Project Engineers Private Limited is **allowed**.

- sd -

(K.K.VOHRA)
MEMBER (TECHNICAL)

- sd -

(CH. MOHD SHARIEF TARIQ)
MEMBER (JUDICIAL)