

**In the National Company Law Tribunal
Mumbai Bench**

MA 2753/2019 in C.P. (IB)-1980/(MB)/2018

Under section 33 (i)(a) of Insolvency &
Bankruptcy Code, 2016

In the Application of

Mr. Santanu T Ray
.....Applicant/ Resolution
Professional

In the matter of

Shanaya Fashions
.....Petitioner/
Operational Creditor

V/s

One World Industries Private Limited
.....Respondent/ Corporate
Debtor

Heard on : 09.10.2019

Order delivered on : 15.11.2019

Coram: Hon'ble Mr. M.K. Shrawat, Member (Judicial)

Hon'ble Mr. Chandra Bhan Singh, Member (Technical)

For the Applicant: Mr. Devarajan Raman, Practising Company Secretary

Per: M.K Shrawat, Member (Judicial)



ORDER

1. This is an Application submitted on 09.08.2019 U/s.33 of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as "I&B Code") by Mr. Santanu T Ray, the Resolution Professional of the Corporate Debtor M/s. One World Industries Private Limited, seeking an Order of 'Liquidation' of the Corporate Debtor. It is informed that the Committee of Creditors' meeting held on 01.08.2019 has approved for "Liquidation".

Facts of the case :

2. In this case, the Petition/ Application U/s. 9 of the Insolvency and Bankruptcy Code, 2016 (the Code) filed by the Operational Creditor Shanaya Fashions against 'One World Industries Private Limited', (hereinafter as "Corporate Debtor") was

Admitted vide an order dated 16.11.2018 (C.P.1980/IBC/MB/2018) by this Bench and Mr. Ajay Gupta was appointed as Interim Resolution Professional (IRP) to conduct the CIRP of the Corporate Debtor.

3. After Admission of the Petition/ Application, in the first meeting of the Committee of Creditors held on 13.12.2018 in which the agenda to appoint Mr. Santanu T Ray (IBBI Registration No: IBBI/IP A-002/IP-N00360/2017-18/11055) was passed by the Committee of Creditors.
4. The Resolution Professional submits that on 21.04.2019 two Prospective Resolution Applicants (PRAs) showed their interest for submission of Resolution Plan namely (i) Cardier Foods and Beverages Private Limited and (ii) Sanjay Rameshchandra Vyas. Subsequently, Mr. Sanjay Rameshchandra Vyas was declared as the eligible Resolution Applicant.
5. The Resolution Applicant however failed to deposit the Earnest Money Deposit (EMD-1) with the resolution plan for which his candidature was rejected by COC.
6. Thereafter, the Resolution Professional published another invitation on 28.05.2019 for submission of EoI in Form G on being directed by CoC.
7. This time again two PRAs showed their interest for submission of Resolution Plan namely Mr. Sanjay Rameshchandra Vyas and Mr Manish Chaturvedi. However, Mr Manish Chaturvedi was declared ineligible and once again Mr Sanjay Rameshchandra Vyas was declared the Resolution Applicant. However, the Resolution Professional failed to receive any Plan from the said Resolution Applicant.
8. Once again Fresh Form G inviting expression of Interest was published by Resolution Professional on 13.07.2019 by which names of the eligible resolution applicants namely, Sanjay Rameshchandra Vyas and Mr Manish Manohar Chaturvedi were declared on 25.07.2019.
9. The Resolution Professional received the Resolution Plan from Mr Sanjay Rameshchandra Vyas on 29.07.2019 and by Mr Manish Manohar Chaturvedi on 31.07.2019.
10. The Resolution Professional submits that the Resolution Applicants had not submitted their Earnest Money deposit of Rs 10 lakhs which constituted 10% of the Resolution Amount. Further, Mr Manish Chaturvedi had requested to waive the submission of Earnest Money Deposit (EMD-1) and also the second stage Earnest Money Deposit (EMD-2) which is 15% of resolution amount offered as performance security.
11. The Resolution Professional informed the members of COC as well as the Resolution Applicants that with the amendment dated 24th January, 2019 in Insolvency and IBBI regulations 2019, makes it mandatory on the part of the Resolution Applicant to



provide a performance security within the time specified by Members of COC and that any request to waive such security is not in compliance with the provisions of the Code.

12. The Members of the COC thereafter opined that despite several efforts by the Resolutional Professional to revive the business of the corporate debtor by bringing in prospective Resolution Applicant, the Resolution Plan submitted were not in compliance to the eligibility criteria nor is it in compliance to the provisions of the Code.
13. Thereafter, in the 7th COC meeting held on 01.08.2019, a resolution with majority voting of 86.09% was passed by the members of COC to initiate liquidation proceedings against the corporate debtor since the 270 days of the CIRP period was to expire on 12.08.2019.

The resolution was passed in the following manner:

“Resolved that Oneworld Industries Private Limited, the Corporate Debtor having CIN No. U74120MH2012PTC230510 may be liquidated as the Resolution Plans received are not in compliance to the provisions of eligibility criteria as decided by the members of COC nor in compliance with the Code”

“Further Resolved that Mr. Santanu T Ray, the Resolution Professional for Oneworld Industries Private Limited is hereby instructed to file an application before the Hon'ble NCLT, Mumbai under Sec 33 and initiate liquidation proceedings against Oneworld Industries Private Limited.”

“Further Resolved that the name of Santanu T Ray, the Resolution Professional be and is hereby recommended to be appointed as the liquidator or conducting the Liquidation Process of the corporate debtor.

14. Hence, in the CoC meeting dated 01.08.2019, the CoC by 86.09% e-voting decided to liquidate the Corporate Debtor under section 33(1) of the I&B Code. The CoC decided that the RP Mr. Santanu T Ray be appointed as liquidator subject to approval of this Bench.
15. The Resolution Professional Mr. Santanu T Ray has given his written consent to act as 'Liquidator' on 09.10.2019 under Regulation 3(1A) of the IBBI (Liquidation Process) Regulations, 2016.



16. The Resolution Professional appointed two valuers for the valuation of short term assets namely (i) M.B Brahme & Co and (ii) Ramesh M Shetty where the average liquidation value of the corporate debtor was stated to be Rs 1,72,93,412/-
17. The Resolution Professional appointed two valuers for the valuation of Long term assets/building namely, (i) M-tech Services LLP and (ii) V K & Associates where the average liquidation value of the corporate debtor was stated to be Rs 8,13,33,000/-
18. Considering above facts and circumstances, this Bench hereby Orders that:
- The Process of Liquidation shall commence as per the Chapter III of the Code from date of this Order.
 - Mr. Santanu T Ray, (IBBI Registration No: IBBI/IP A-002/IP-N00360/2017-18/11055) is hereby appointed as a "Liquidator" as per the Provisions of S. 34 of the Code.
 - The RP shall advertise in two Newspapers, one in English language and one in Vernacular Language i.e. Marathi, about the Liquidation of the Corporate Debtor as per the provisions of the Code.
 - Copy of this Order shall be forwarded to the Concerned Authority with which the Corporate Debtor is Registered.
19. The Liquidator is at liberty to seek any directions, if need be, from this Bench during the Liquidation Process.
20. The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.
21. Ordered Accordingly. Application for U/s. 33 (1) (a) is Allowed.

Sd/-

CHANDRA BHAN SINGH
MEMBER (TECHNICAL)

DATE: 15.11.2019

Sd/-

M. K. SHRAWAT
MEMBER (JUDICIAL)



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22/11/2019

B. n. Patel

By,
Assistant Registrar

National Company Law Tribunal Mumbai Bench