THE NATIONAL COMPANY LAW TRIBUNAL
COURT VI, NEW DELHI
I.A. 5033/2020
IN
Company Petition No. (IB) – 2158 (ND) /2019

Under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 for liquidation of the corporate debtor

In the matter of:

Mr. ARUN KUMAR GOEL

.... PETITIONER/
OPERATIONAL CREDITOR

VERSUS

M/s. HI TECH GRAIN PROCESSING PVT. LTD.

..... CORPORATE DEBTOR

In the matter of:

CHANCHAL DUA

.... Applicant (RP)

Order Pronounced on : 13.04.2022

CORAM:
SHRI.P.S.N. PRASAD,
HON'BLE MEMBER (JUDICIAL)
SHRI. HEMANT KUMAR SARANGI,
HON'BLE MEMBER (TECHNICAL)

For the RP : Mr. Abhishek Anand, Adv.

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ORDER

PER- HEMANT KUMAR SARANGI, MEMBER (TECHNICAL)

1. This is an application filed by the Resolution Professional, under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code"), for issuance of directions for liquidation to Corporate Debtor, M/s. HI Tech Grain Processing Limited.

2. The facts in brief are that one of the Operational Creditors, Mr. Arun Kumar Goel, proprietor of M/s. Har Swaroop Traders, had filed an application under Section 9 of the Code, bearing number IB- 2158 (PB)/2019, for initiation of Corporate Insolvency Resolution Process (CIRP), against the Corporate Debtor. The said application was admitted by this Tribunal on 31.10.2019, initiating CIRP against the Corporate Debtor and therein, appointed Mr. Amar Gopal Gambhir, as the Interim Resolution Professional (IRP).

3. Thereafter, the Applicant had issued public announcement in Form-A, which was published in 'The Financial Express' (English) and 'Jansatta' (Hindi), both NCR editions on 03.11.2019, calling on the creditors to submit their proofs on or before 14.11.2019. On receipt of claims and their verification / collation, the Committee of Creditors (CoC) was constituted by the Applicant. The CoC in its third meeting held on 29.01.2020, decided and resolved for the appointment of the applicant, Mr.Chanchal Dua, as the Resolution Professional.

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4. Further, during the process of CIRP, the advertisement for Expression of Interest ("EoI"), was issued and published on 05.03.2020, wherein the last date of submission of EoI was 20.03.2020.

5. In the fourth meeting of the CoC, held on 15.01.2020, the RP informed the members, that as mandated by Regulation 27 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process of Corporate Debtor) Regulations, 2016, the following had been appointed to conduct the valuation of the assets of the Corporate Debtor:

Name of the Valuer	Class of Assets
Mr. Lakhan Lal Gupta	Land and Building
Mr. Rajesh Gupta	For Plant & Machinery, Office Assets & Inventory (if any)
CA Mohit Sagar	For Securities or Financial Assets
AAA Valuations Professional LLP	For all the 3 assets class

The Applicant also appointed M/s. PVRN & Co. as the Auditor to conduct the Transaction Review Audit of the corporate debtor for the period from 01.04.2015 to 31.10.2019 (insolvency commencement date of the corporate debtor), as decided in the third CoC meeting.

6. That In the fifth meeting of Committee of Creditors, convened on 21.03.2020, the Applicant apprised the members of the CoC regarding 6 EoI received pursuant to the publication of FORM-G.

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The list of the prospective resolution applicants is as follows;-

a. Sunrise Industries

b. Paramjit Gandhi

c. Prudent ARC Limited

d. Hierank Sugar Industries with Strategic Partner Kanha Enterprises Pvt. Ltd.

e. Paridhi Finvest Pvt. Ltd.

f. ASC Consulting Pvt. LTd.

7. As 180 days of CIRP period was ending on 06.07.2020, the applicant, as the RP, had called for another CoC meeting, being the fifth meeting. In the said meeting it was suggested by the members of the CoC, inter-alia, for seeking extension of CIRP period by 90 days beyond 180 days. Accordingly, the said resolution was approved by 79.54% vote share. This bench by its order dated 13.07.2020, allowed the application and granted extension of time of 90 days expiring on 11.10.2020.

8. The valuation summary as submitted by the applicant is as follows:

S. No.	**Name of Valuer**	**NATURE OF ASSET**	**Fair Value (in Rs.)**	**Liquidation Value (in Rs.)**
1.	Mr. Lakhan Lal Gupta	Land & Building	56,70,69,060	51,03,62, 155
2.	Mr. Rajesh Gupta	Plant & Machinery,	33,08,527	24,81,395

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		Office Assets & Inventory		
3.	CA Mohit Sagar	Securities or Financial Assets	Nil	Nil
4.	AAA Valuations Professionals LLP (RVE)	Land & Building	71,26,17,310	57,00,93,84 8
5.	AAA Valuations Professionals LLP (RVE)	Plant & Machinery, Office Assets & Inventory	63,28,411	47,70,738
6.	AAA Valuations Professionals LLP (RVE)	Securities or Financial Assets	Nil	Nil

That in light of the above mentioned, the total value of of the Corporate Debtor is as follows:

a. **Average Fair Value** : Rs. 64,46,61,645/-
b. **Average Liquidation Value** : Rs. 54,38,54,068/-

9. In the tenth meeting of CoC, held on 15.09.2020, the 3 resolution applicants i.e., Paridhi Finvest Pvt. Ltd. ('Paridhi Finvest'), Hierank Sugar Industries Pvt. Ltd. along with Kanha Enterprises Pvt. Ltd. ('Hierank & Kanha') and Mr. Naresh Kumar Mittal (Promoter/ Director of the CD), submitted their revised resolution plans, the CoC asked them to revise their offers under the resolution plan and also provide clarifications/ explanations on the resolution plan as desired by the CoC. Further the

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resolution plan submitted by Promoter/ Director Mr. Naresh Kumar Mittal was not compliant, primarily on account of ineligibility under Section 29A (ineligibility of connected person M/s. Ankur Roller Flour Mills Pvt. Ltd.) and also that he has not submitted the EMD as required under RFRP, therefore his resolution plan was not put to voting.

10. The Applicant submits that the the e-voting on the resolution plans, submitted by Paridhi Finvest and Hierank & Kanha, was scheduled from 25.09.2020 12:00 PM till 05.10.2020 6:00 PM, but at the request of the CoC, the e-voting was extended to 09.10.2020 3:00 PM. Both the resolution plans submitted by Pridhi Finvest and Hierank & Kanha were rejected by the members of the CoC with 100% voting share.

11. The CoC in its twelfth meeting, held on 09.10.2020, post detailed discussions and deliberations by its members on the entire aspect of CIRP, held that in the absence of any viable Resolution Plan and even after exploring all possibilities for resolution even during the extended time, that there are no other avenues left but to opt for the Liquidation process for CD.

12. In view of the above position we hereby allow the application by ordering liquidation of the corporate debtor, namely M/s.Hi Tech Grain Processing Private Limited with following directions:

a. That Mr. Chalal Dua, the Resolution Professional of the Corporate Debtor, is relieved from the present assignment as Resolution Professional.

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b. That Mr. Chalal Dua, holding Registration No. IBBI/IPA-003/IP-N00083/2017-2018/10821, is appointed as the Liquidator in terms of Section 34 of the Code;

c. 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 a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;

e. This order shall be deemed to be notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;

f. 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 rules and regulations.

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g. The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.

h. The liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.

i. The Liquidator shall submit 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;

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

13. Therefore, I.A. 5033 (ND)/2020 filed in IB- 2158 (ND)/2019 is **allowed** in terms of the aforesaid order.

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(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)

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(P.S.N. PRASAD)
MEMBER (JUDICIAL)