

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

MA 2630/2019 in CP(IB)1541(MB)/2017

(Under Section 33 of the IBC, 2016)

Brijendra Kumar Mishra

... Applicant/RP

In the matter of

Vipul Diamond

..... Petitioner

Vs.

Tara Jewels Ltd

... Corporate Debtor

Order delivered on 30.7.2019

Coram:

Hon'ble Member (Judicial) Shri V.P. Singh

Hon'ble Member (Technical) Shri Rajesh Sharma

For the Applicant: Mr A. S, Attari i/b Vikrant Shetty

Per: V P Singh, Member (J)

Rajesh Sharma, Member (T)



ORDER

MA 2630/2019(Diary bearing No 5659 of 2019) has been filed by Resolution Professional seeking liquidation of the Corporate Debtor under Section 33 (1) of the IB Code, 2016.

2. The applicant contends that Petition filed under Section 9 of the Insolvency and Bankruptcy Code, 2016, against the Corporate Debtor Tara Jewels Limited, was admitted by this Bench on 1.11.2018. The applicant was appointed a Resolution Professional. It is further stated that in spite of best efforts taken by the Applicant, one of the 5 Prospective Resolution Applicants (PRAs) withdrew its name from consideration while 2 PRAs did not revert to the applicant. On the request of the two remaining PRAs, the last date for submission of resolution plan was extended twice, i.e. first to 29.6.2019 and after that further to 10.7.2019

3. Applicant further contended that in the last CoC held on 26.7.2019; it was noted by the members of CoC that no resolution plan had been received from any Prospective Resolution Applicants even in the extended period,

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including the extension of 90 days granted by the Adjudicating Authority. After that, it was decided that in view of the likely completion of a period of 270 days, and due to no-receipt of any resolution plan, the Resolution professional may take necessary steps by filing a relevant application under section 33 of the code for Liquidation of the Corporate Debtor. It is further submitted that 270 days expired on 20.7.2019.

4. The applicant has also annexed a copy of the minutes along with the attendance sheet, which shows that the CoC with 97.97% vote shares has approved resolution for Liquidation of the Corporate Debtor. The applicant RP has also annexed his consent for being appointed as a liquidator, which is annexed as Exhibit- N, with the application.

5. In the circumstance, we at this moment allow the application filed under section 33 of IBC, 2016

ORDER

6. MA 2630/2019 is allowed, and we at this moment, pass the order of liquidation Section 33 of IBC as follows:

a. That the Corporate Debtor is liquidated in the manner as laid down in the Chapter by issuing a Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to RoC under which this Company has been registered.

b. As to the appointment of Liquidator, Brijendra Kumar Mishra is at this moment appointed to act as a Liquidator for the liquidation of Corporate Debtor company with all powers as envisaged in the Code.

c. On such appointment under Section 34 of the Code, all powers of the Board of Directors, key managerial personnel and the partners of the Corporate Debtor shall cease to affect and shall be vested in the Liquidator.

d. That the personnel of the Corporate Debtor shall extend all co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.

e. That the Liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate/assets as specified under Regulation 4 of Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016 and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.

f. Since this liquidation order has been passed, subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or



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against the Corporate Debtor, in the event of initiation of a suit or legal proceeding by the liquidator on the corporate debtor behalf, it may initiate such proceedings with prior approval of this Adjudicating Authority save and except as mentioned in sub-section 6 of Section 33 of the Code.

- g. This liquidation order shall be deemed to be notice of discharge to the officers, employees and workers of the Corporate Debtor except to the extent of the business of the Corporate Debtor continuing during the liquidation process by the Liquidator.
7. Moratorium declared vide Order dated 1.1.2018 in CP No.: 2295/2018 ceased to exist.
8. The registry is directed to communicate this order to the Liquidator immediately even by way of e-mail.
9. MA 2630/2019 is disposed of accordingly.

Sd/-
RAJESH SHARMA
Member (Technical)



Sd/-
V. P. SINGH
Member (Judicial)

Certified True Copy
Copy Issued "free of cost"
On 14/8/19


Assistant Registrar

National Company Law Tribunal Mumbai Bench