

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH
KOCHI

IA (IBC)/ 230/KOB/2023

In

CP (IBC)/34/KOB/2022

In the matter of:

An application under Sections 33 (2) read with Section 34 of the Insolvency and Bankruptcy Code, 2016 read with rule 11 & Rule 32 of NCLT Rules, 2016;

-And-

In the matter of:

Mr. Vikky Dang, Resolution Professional of **Simtel Trading Corporation Pvt Ltd**, (CD) having office at –B-11, Near, Mangal Bazar Gurudwara. Vishnu Garden, New Delhi;

...Applicant

-In-

In the matter of:

Tata Capital Financial Services Private Limited, Tower A, 1101, Peninsula Business Park, Ganpatrao Kadam Marg, Lower Parel, Mumbai- 400 013, Maharashtra;

...Financial Creditor

-Versus-

Simtel Trading Corporation Private Limited, Regd. Office at Cheraykkayath Building, Grace Home No. 8/700 R, Vayanasala Junction, Thengode, Thrikakara, Ernakulam- 682 030, Kerala.

...Corporate Debtor

Coram:

Shri P. Mohan Raj : Member (Judicial)
Shri Satya Ranjan Prasad : Member (Technical)

Appearances (through Video Conference)

For the Applicant : Mr. Akhil Suresh, Adv.
Mr. Hari Kumar G Nair, Adv.
Mr. Athul M V, Adv.

Order reserved on: 22.06.2023

Order pronounced on: 30.06.2023



ORDER

1. This application has been filed by **Mr. Vikky Dang**, Resolution Professional of Corporate Debtor – Simtel Trading Corporation Private Limited. The Corporate Insolvency Resolution Process (**CIRP**) against the corporate debtor under Section 7 of IBC, 2016 was admitted by this Adjudicating Authority on 01.12.2022 in CP (IBC)/34/KOB/2022 and consequently, the CIR Process commenced on the said date with Mr. Vikky Dang appointed as Interim Resolution Professional. The applicant made necessary paper publications, took over the assets of the corporate debtor, verification of the claims as well as constituted the Committee of Creditors (“**CoC**”).
2. In pursuance of CIRP order the IRP effected public announcement in “*Financial Express*” (English Edition) and “*Chandrika*” Malayalam Daily in (Kochi Edition) both on 03.12.2022. In response to the said newspaper publications claims were received. The public notice sought proof of claims from the financial creditors and Operational creditor in Form C and Form B as stipulated in Regulations 8 and 7 of the code till the last date of claim i.e., 15.12.2022. Interim Resolutions Professional has received two claims from the financial creditor. The applicant has not received any claims from the Operational creditors. In response to the said newspaper publications claims were received and CoC was constituted with the two financial creditors. The RP had received claims from Tata Capital Financial Services Private Limited and Incred Financial Services Limited for as sum of Rs. 59,48,79,979.601/- and Rs. 10,34,65,551/- respectively. The two Financial Creditors namely Tata Capital Financial Services Private Limited with 86.18% voting right and Incred Financial Services Limited with 14.82 % voting rights.
3. The Applicant has submitted these claims provisionally as they are based on the claims made by the Financial Creditors and on the basis of proof of documents submitted with the claim. However, since the Suspended



Management of the Corporate Debtor has not furnished the complete books of accounts of the corporate debtor, therefore, the claims of the claimants are being provisionally admitted.

4. The applicant submits that the suspended management has been non-cooperative in furnishing relevant information and documents to the applicant which in turn has hindered and prejudiced the CIRP. It is submitted that despite the applicant sending incessant reminders to the suspended Management via telephone and emails to provide necessary information/documents/records, the respondent has failed to furnish the same. However, having no avail, the applicant was constrained to file an application under Section 19 (2) of the I&B Code for necessary directions from the Suspended Management to extend cooperation vide IA(IBC)/80/KOB/2023 in CP (IB) /34/KOB/2022.

5. In the 1st Committee of Creditors (CoC) meeting held on 29.12.2022, The CoC members informed the applicant that the suspended managers have alienated the properties of the corporate debtor after availing a loan. The assets of the corporate debtor were not present and therefore the applicant herein suggested early dissolution of the corporate debtor. There are no assets for the corporate debtor and it would be difficult for resolution and revival of the corporate debtor. Thereafter in the 2nd CoC meeting held on 25.02.2023 where the CoC informed the RP for the aforesaid reason to not take any steps for publication of Form G. Therefore, on the instructions and suggestion of the CoC members the expression of Interest (EOI) is not published as the CoC members are of the opinion that since the corporate debtor has no assets and the resolution and revival of the corporate debtor would not be possible. Therefore, the CoC members suggested for liquidation/dissolution early dissolution of the corporate debtor.



6. Thereafter, the applicant submits that in the 3rd CoC meeting held on 08.05.2023 the financial creditors with 100% voting had passed a resolution to proceed for the liquidation of the corporate debtor. It is further submitted that the CoC has also ratified the appointment of the applicant as the liquidator of the corporate debtor and the fee for the liquidator has also been fixed by the CoC.
7. It is submitted that the CoC has also resolved to appoint Mr. Vikky Dang, as the Liquidator of the Corporate Debtor. The said Mr. Vikky Dang /Applicant has also consented to act as the Liquidator of the Corporate Debtor and given his consent in writing.
8. This present application is filed for liquidation with 100% voting of CoC members; further, no resolution plan was received, and there is no further scope for revival of the corporate debtor and no assets that are available for Liquidation apart from the proceeds may arise on obtaining necessary orders in the application filed by the applicant under Section 66 of IBC, 2016 for fraudulent transactions. The applicant resolution professional and the CoC had endeavored to revive the corporate debtor the corporate debtor but unfortunately, their efforts did not yield desired results. In the result, applicant prayer is conceded
9. In the result, **Simtel Trading Corporation Private Limited**, corporate debtor is **ordered to be liquidated**.
10. The applicant **Mr. Vikky Dang**, Resolution Professional of corporate debtor, Simtel Trading Corporation Private Limited, having his office at: B-11, Near-Mangal Bazar Gurudwara, Vishnu Garden, New Delhi- 110018 has given a written consent dated 26.04.2023 to appoint him as a liquidator as required under Section 34 (1) of IBC,2016. Hence, Mr.Vikky Dang, with **Registration No: IBBI/IPA-003/00359/2021-22/13763** is appointed as liquidator of corporate debtor Simtel Trading Corporation Private Limited.



11. The Liquidator is directed to forthwith take into his custody all the assets, Properties, and actionable claims of the corporate debtor and take necessary steps to ensure preservation, protection security and maintenance of those properties as provided under section 35(1)(b) & (d) of IBC 2016.
12. 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.
13. Public Notice as contemplated under section 33(1) of the Code shall be issued in one morning, English daily and in one morning regional language newspapers.
14. All the powers of the Board of Directors of the Corporate Debtor and of its key managerial personnel, shall cease to exist in accordance with section 34 (2) of the Code. These powers shall henceforth vest in the Liquidator. The personnel of the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as may be required by him in the Liquidation process of the Corporate Debtor.
15. On initiation of the Liquidation process but subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor, save and except the liberty to the liquidator to institute a suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.
16. In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a notice of discharge to the officers, employees and work men of the Corporate Debtor, except to the extent of the business of the Corporate Debtor continued during the liquidation process by the liquidator.



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17. In terms of Section 33(1) (b) (iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, Kerala at Ernakulam, within whose jurisdiction the Corporate Debtor is registered.
18. The fee of Liquidator to be determined as provided under Regulation 4 of Insolvency and Bankruptcy Board of India (Liquidation process) Regulation 2016.
19. As per Regulation 13 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016, the liquidator shall submit a preliminary report to the Adjudicating Authority within 75 days from the liquidation commencement date providing various details/information as mentioned in the said regulation.
20. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps,
21. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

SATYARANJAN PRASAD Digitally signed by SATYARANJAN PRASAD
Date: 2023.06.30 17:25:18 +05'30'

Satya Ranjan Prasad
Member (Technical)

PANDIAN MOHAN Digitally signed by PANDIAN
MOHAN RAJ
Date: 2023.06.30 17:27:01 +05'30'
RAJ

P. Mohan Raj
Member (Judicial)

Signed on this, 30th day of June, 2023.

Supriya_P.S