

Through Videoconference

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT No. - I

IA No. 1626 of 2021
in
C.P. (IB) No. 1567/MB/2018

(An Application under Section 33(2) of the Insolvency and
Bankruptcy Code, 2016)

Anurag Jain
Resolution Professional of
Orient Tourism Pvt. Ltd.,
1003, Satara Plaza, Sector -19D,
Vashi, Navi Mumbai - 400 703.

... *Applicant*

In the matter of:
C.P. (IB) No. 1567/MB/2018

Team Outdoors

... Operational Creditor

V/s

Orient Tourism Private Limited

... Corporate Debtor

Date of Order: 05 .08.2021

CORAM:

Shri. Bhaskara Pantula Mohan, Hon'ble Acting President
Shri. Narender Kumar Bhola, Hon'ble Member (Technical)

Appearance:

For the Applicant: Mr Aniruth Purusothaman, Advocate.

Sd/-

Per: Narender Kumar Bhola, Member (Technical)

ORDER

1. The present Application is filed by the Applicant under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (the Code) seeking liquidation of the Corporate Debtor.
2. This Tribunal by order dated 17.09.2019 admitted the captioned Petition under Section 9 of the Code and initiated Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor. Mr. Anurag Jain, the Applicant herein, was appointed as the Interim Resolution Professional (IRP).
3. The IRP made a public announcement on 13.10.2019 inviting claims from the creditors of the Corporate Debtor and upon receipt of the claims, constituted the Committee of Creditors (CoC).
4. In the 1st meeting of the CoC held on 13.11.2019, the IRP, Mr. Anurag Jain was continued as the Resolution Professional (RP) of the Corporate Debtor. In the same meeting the Applicant appraised the CoC regarding the Application submitted by the Operational Creditor in 'Form FA' for withdrawal of the CIRP. Accordingly, the CoC approved for the filing of the Application under Section 12A of the Code for withdrawal of the CIRP.

Sd/-

5. This Tribunal *vide* order dated 08.01.2021, rejected the Application for withdrawal (IA No. 3595 of 2019) under Section 12A of the Code, as two claims from the financial creditors were received and admitted by the Applicant and also as Form FA was not accompanied by a Bank Guarantee as mandated under Regulation 30A(2) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Tribunal *vide* same order, excluded the litigation period from 06.11.2019 till 08.01.2021 from the CIRP period.
6. Subsequently, the Applicant convened 2nd CoC meeting on 22.02.2021 (adjourned to 25.02.2021), wherein the agenda relating to issue of Invitation for Expression of Interests (EoI) along with the eligibility criteria etc., were discussed. However, after long discussion the CoC arrived at an understanding that serious fraud has taken place in the Corporate Debtor and Books of Accounts of the Company are goofed up to give a rosy picture. Therefore, the CoC decided to discontinue the CIRP and discussed regarding the liquidation of the Corporate Debtor. The CoC requested the Applicant to put the agenda for liquidation of the Corporate Debtor in the next meeting.
7. In the 3rd meeting of the CoC held on 14.06.2021 (adjourned to 17.06.2021), the suspended director of the Corporate Debtor, Mr. Prakash Chandan, intervened and requested the CoC to rethink upon the decision to liquidate the Corporate

Sd/-

Debtor. However, the CoC unanimously rejected the said request and resolved to liquidate the Corporate Debtor and appoint Mr. Ashish Vyas as the liquidator. The relevant extract of the Resolution is as below:

"RESOLVED THAT the consent of the Committee of Creditors be and is hereby accorded to approve the liquidation of the Corporate Debtor under Section 33(2) of the Code".

Hence, this Application.

8. Mr. Ashish Vyas, the proposed liquidator, has given his written consent to act as the liquidator of the Corporate Debtor. Copy of the consent is annexed as 'Exhibit - L' to the Application.
9. We have heard the learned counsel appearing for the Applicant and have perused the records. The Application is in accordance with law. The same needs to be approved as provided under Section 33 of the Code. Hence ordered.

ORDER

The Application be and the same is allowed. The Corporate Debtor, Orient Tourism Private Limited, shall be liquidated in the manner as laid down in Chapter-III of the Code with the following directions:

- a) Mr Ashish Vyas having Registration No. IBBI/IPA-001/IP/P-01520/2018-2019/12267 is appointed as Liquidator. He shall be entitled to fees in

Sd/-

terms of Section 34(8) of the Code read with Regulation 4(2) of the IBBI (Liquidation Process) Regulations, 2016 (the Regulations).

- b) The Liquidator shall issue public announcement stating that the Corporate Debtor is in liquidation.
- c) The Moratorium declared under Section 14 of the Code shall cease to operate here from.
- d) Subject to Section 52 of the Code no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- e) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- f) The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code read with the Regulations.
- g) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.

Sd/-

- h) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- i) The Liquidator is directed to send a copy of this Order to Registrar of Companies concerned and Insolvency and Bankruptcy Board of India, New Delhi.

Sd/-

Narender Kumar Bhola
Member (Technical)

Sd/-

Bhaskara Pantula Mohan
Acting President