

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, DELHI
BENCH III**

IA- 5524/2020

IN

CP (IB) – 1198/ND/2019 filed under Section 33 of
the Insolvency and Bankruptcy Code, 2016.

In the matter of Brightsun Technocraft Private Limited.

Mr. K Subhra Narayan Mohapatra,

Resolution Professional

... Applicant

Order delivered on 24 of December, 2020

CORAM:

CH. MOHD SHARIEF TARIQ, HON'BLE MEMBER (JUDICIAL)

Parties / Counsels present

For Resolution Professional : K Subhra Narayan Mohapatra (RP).

ORDER

1. This relates to IA- 5524/2020 filed in CP (IB) – 1198/ND/2019 by Mr. K Subhra Narayan Mohapatra (hereinafter referred to as 'Resolution Professional') under Section 33(2) of the Insolvency and Bankruptcy Code, 2016. The prayer made in the Application is to pass an order of liquidation pertaining to the Corporate Debtor (CD) viz., Brightsun Technocraft Pvt. Ltd.

2. Originally CP (IB) – 1198/ND/2019 was admitted by this Authority vide Order dated 07.02.2020, the Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor and the resolution professional was appointed as Interim Resolution Professional vide the same order.

3. It is averred that pursuant to the Order of this Authority, the applicant issued form A for invitation of claims from the creditors of the corporate debtor on 24.10.2019 in Financial Express (English) and Jansatta (Hindi). In response to that 2 claims were received – one from M/S B.P Agency (Delhi) applicant in main petition for Rs 22,65,838.00 and another from Balwant Industries for Rs 87,243.00. Hence, the Committee of Creditors (CoC) was constituted with 2 Operational Creditor on 28.03.2020.

4. In the meanwhile, the applicant also filed an application under section 19(2) of IBC, 2016 before this authority for seeking a direction for giving cooperation from ex-management of the Corporate Debtor.

5. It was submitted that during the first CoC meeting held on 28.03.2020 the applicant was confirmed as the resolution professional by the CoC members as per the provisions of section 22(3)(a) of the IBC, 2016.

6. The second meeting of CoC was convened by Resolution Professional on 15.04.2020. However, no action towards the corporate insolvency resolution process was taken by the Resolution Professional due to nationwide lockdown.
7. It is submitted that the resolution professional (RP) visited the registered office on 06.10.2020 and found locked outside. RP lodged a complaint as well as filed an application under regulation 30 of Corporate Insolvency Resolution Process Regulation before this authority for adjudication.
8. It is further submitted that the applicant visited different sites including the registered office and the address mentioned in the order for collecting the records and reminded Ex-directors for providing the financial records. However, neither the address was of any use nor Ex-directors cooperated with the applicant.
9. It is averred that, in the 3rd CoC held on 20.08.2020, it was resolved to publish the form G for Expression of Interest (Eols) without any financial statement. The auditor of CD provided the provisional financial statement to the applicant on 07.09.2020. In the fifth CoC held on 26.09.2020 eligibility criteria of Eol for Prospective Resolution Applicant (PRA) were set out. Further, it was resolved to publish the form G and

requested the applicant to provide the Evaluation Matrix.

10. It is further averred that form G was published on 1.10.2020 in Business Standard (English and Hindi). In the meantime, the applicant also filed another application under section 19(2) of IBC, 2016 for necessary directions to Ex-Directors/Promoters.
11. It is submitted that after verifying the financial statements and confirmed by auditor of CD, it is confirmed that there is no business activity since 2018-19 and there is no asset as on date and it was sold to R.K Dispo Products, one of the related parties in Assam during F.Y. 2017-18. After considering the financial statements an application is filed before this authority under section 43 and 66 of IBC alleging that there are related party and fraudulent transactions reported in the financial statement provided by auditor, which is pending before this authority.
12. Since no resolution plan has been received by the applicant before the expiry of the period prescribed i.e., 25.11.2020. Therefore, in the 7th meeting of CoC held on 06.12.2020 the resolution passed is as follows;
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 - The CoC decided with 100% voting right to liquidate the Corporate

Debtor.

- Mr. K Subhra Narayan Mohapatra (Applicant) is recommended as Liquidator. He shall be entitled to Rs. 50,000/- p.m as liquidator fee under regulation 4(1) and 60% of fee in column 1, 70% of fee in column 2 and 75% fee in column 3 under regulation 4(2)(b) of IBBI Liquidation Process Regulation, 2016.
- The Applicant is also authorized to file an application for commencement of liquidating proceeding of Corporate Debtor.
- CIRP expenses of Rs. 14,06,925/- from 07.02.2020 to 14.12.2020 is also approved.

13. Since no Resolution Plan is received by this Authority under Sub-section (6) of Section 30 of the Insolvency & Bankruptcy Code, 2016, the Corporate Debtor has to be ordered for liquidation.

ORDER

14. In view of the facts and circumstances recorded by Resolution Professional in IA- 5524/2020 filed in CP (IB) – 1198/ND/2019 and in exercise of powers conferred under Sub-Clauses (i) (ii) and (iii) of Clause (a) of Sub-Section (1) of Section 33 of the I&B Code, 2016, this Authority proceeds to pass Liquidation Order as follows: -

- I. This Authority hereby orders for liquidation of the Corporate Debtor (CD) viz., M/s. Brightsun Technocraft Pvt. Ltd. which shall be conducted in the manner as laid down in Chapter III of part II of the Insolvency & Bankruptcy Code, 2016;
- II. This Authority hereby appoints Mr. K Subhra Narayan Mohapatra, with registration no. IBBI/IPA-002/IP-N00618/2018-19/11981 as Liquidator who shall issue a public announcement stating therein that the Corporate Debtor is in liquidation and shall be entitled to the remuneration as resolved in the 7th CoC meeting.
- III. The moratorium declared under Section 14 of the Insolvency & Bankruptcy Code, 2016, shall cease to have effect from the date of the order of liquidation;
- IV. Subject to Section 52 of the Insolvency & Bankruptcy Code, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.
- V. This Authority makes it clear that Para (IV) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by

the Central Government in consultation with any financial sector regulator.

VI. 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.

VII. All the powers of the Board of Directors, Key Managerial Personnel and the Partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the Liquidator viz., Mr. K Subhra Narayan Mohapatra. In addition to it, the Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the Insolvency & Bankruptcy Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

VIII. The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.

IX. The liquidator is directed to communicate this order with immediate effect to the concerned Registrar of Companies, RD, OL, Registered Office of the Corporate Debtor for information and compliance.

15. In terms of the above, IA- 5524/2020 filed in CP (IB) – 1198/ND/2019 by the Resolution Professional under Section 33(2) of the Insolvency & Bankruptcy Code, 2016, for initiation of the Liquidation Proceedings against the Corporate Debtor viz., M/s. Brightsun Technocraft Pvt. Ltd. is **allowed**.

16. The order is pronounced through video conferencing.

- Sd.

(CH. MOHD SHARIEF TARIQ)

MEMBER (JUDICIAL)

IA-5524/20
CP-IB-1198/ND/2019
2020