

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

IA (IB) No. 1294/KB/2020
in
CP (IB) No. 1519/KB/2019

Under section 33 of Insolvency & Bankruptcy Code, 2016

In the matter of

Arizona Global Services Private Limited

... Financial Creditor

Versus

New Age Satellite Services Private Limited

... Corporate Debtor

Hemant Gupta, Resolution Professional of New Age Satellite Services Private Limited

... Applicant

Coram:

Shri Rajasekhar V.K., Member (Judicial)

Shri Harish Chander Suri, Member (Technical)

Appearances (through video conferencing):

For the Applicant

1. Mr. R.K. Gupta, Advocate
2. Ms. Swaralipi Deb Roy, Advocate

Resolution Professional

Mr. Hemant Gupta

Order reserved on: 15.12.2020

Order pronounced on: 02.02.2021

ORDER

Per Rajasekhar V.K., Member (Judicial)

1. This court convened *via* video conferencing.
2. This is an application filed by the Resolution Professional upon the instructions of the Committee of Creditors (CoC) seeking liquidation of the Corporate Debtor, *viz.*, New Age Satellite Services Private Limited [CIN: U51909WB1996PTC076493], on the ground that the Corporate Debtor is not a going concern.
3. This Adjudicating Authority *vide* its order dated 14.02.2020 on a Petition filed by the Arizona Global Services Private Limited (*financial creditor*) under section 7 of the Insolvency and Bankruptcy Code, 2016 (*'the Code'*) directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor and appointed Mnish Jain as the Interim Resolution Professional (IRP).
4. The Applicant submits that in terms of section 15 of the Code, public announcement was made on 18.02.2020, in *Business Standard* (English) and *Ekdin* (Bengali) of Kolkata Edition of the said newspapers, fixing 02.03.2020 as the last date for submitting the claim.
5. The Committee of Creditors (CoC) was duly constituted with one Financial Creditor, and the Report certifying the constitution of the CoC was filed with the Adjudicating Authority.
6. The first meeting of the CoC was held on 22.06.2020, wherein resolution was passed to replace the IRP and appoint the Applicant as the Resolution Professional (RP). The appointment of the Applicant as RP was confirmed by the Adjudicating Authority *vide* order dated 29.07.2020. In the second CoC meeting, dated 24.08.2020, the CoC deferred the issuance of EOI considering the fact that there are no fixed assets

available of the corporate debtor, there is no business activity being carried upon by corporate debtor and that revival of the Corporate Debtor does not seem possible.

7. In the third COC meeting dated 22.10.2020, CoC passed a resolution for liquidation of Corporate Debtor and realize the fixed deposit kept with the Corporation Bank now Union Bank of India which was kept by the corporate debtor as margin money for bank guarantee given to the Department of Telecom.
8. The Applicant/Resolution Professional, Mr. Hemant Gupta [Reg. No. IBBI/IPA-001/IP-P01072/2017-2018/11763], has agreed to act as liquidator to carry on the process of liquidation and given his consent to act as Liquidator, in the prescribed Form AA, in terms of section 34(1) of the Code.
9. We have considered the submission made by the Applicant/RP in person and perused the record.
10. Section 33(2) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Debtor where the resolution professional, at any time during the CIRP but before confirmation of the resolution plan, intimates the Adjudicating Authority of the decision of the CoC approved by not less than sixty-six percent of the voting share, to liquidate the Corporate Debtor. In the present case, the CoC has resolved by 97.47% voting share to liquidate the Corporate Debtor.
11. This Bench, therefore, hereby orders as follows: -
 - a. IA No. 1294/KB/2020 filed by Mr Hemant Gupta, RP of New Age Satellite Services Private Limited, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;
 - b. **Mr. Hemant Gupta [Reg. No. IBBI/IPA-001/IP-P01072/2017-2018/11763]**, is hereby appointed as Liquidator is hereby appointed as Liquidator as provided under section 34(1) of the Code, subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019.

- c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
 - d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, *i.e.*, *Business Standard* (English) and *Ekdin* (Bengali) of Kolkata Edition, stating that the Corporate Debtor is in liquidation.
 - e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
 - f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
 - g. 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 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.
 - h. 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 workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.
 - i. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, Kolkata, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.
12. The application bearing **IA (IB) No. 1294/KB/2020** shall stand disposed of in accordance with the above directions.
13. 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.

14. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

15. List the main **CP (IB) No. 1519/KB/2019** for reporting progress on **28.04.2021**.

[Harish Chander Suri]
Member [Technical]

[Rajasekhar V.K.]
Member [Judicial]

2nd day of February, 2021.

GGRB[LRA]