

ORDER

PER: SHRI BHASKARA PANTULA MOHAN, MEMBER (J)

This is an Application, filed by Mr. Aishwarya Mohan Gaharana, the Resolution Professional of M/s Victory Infratech Pvt. Ltd. (hereinafter referred as 'Applicant') under Section 33(2) of the Insolvency and Bankruptcy Code, 2016, seeking the following main reliefs:

- “1. *Pass an order for the initiation of liquidation process of the corporate debtor i.e. Victory Infratech Private Limited, under Section 33(2) of the Insolvency and Bankruptcy Code, 2016.*
2. *Pass an order for the appointment of the Resolution Professional Mr. Aishwarya Mohan Gahrana, as the Liquidator of the Corporate Debtor under Section 34 of the Insolvency and Bankruptcy Code, 2016.*
3. *Pass such other orders/directions as this Hon'ble Adjudicating Authority may deem fit and proper in the facts and circumstances of the case.....”*

2. Facts of the case in brief are that the Financial Creditor, M/s LIC Housing Finance Ltd. had filed an Application bearing No. (IB)-1627/(ND)/2019 under Section 7 of the IBC, 2016 for initiating the Corporate Insolvency Resolution Process (CIRP) against M/s Victory Infratech Pvt. Ltd. The said Application was admitted by this Tribunal



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vide its Order dated 21.10.2019 and Mr. Aishwarya Mohan Gahrana was appointed as the Interim Resolution Professional (IRP),

3. In terms of the Regulation 6(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the said Interim Resolution Professional made a public announcement in the Form-A, which was published in the newspapers namely, the "Business Standard" (English) in Delhi/NCR edition and "Business Standard" (Hindi) in Delhi/NCR edition on 30.10.2019. The said public announcement was uploaded on the website of the Insolvency and Bankruptcy Board of India (IBBI).

4. It is stated by the Applicant that the CoC was constituted comprising of Sole Financial Creditor namely M/s. LIC Housing Finance Ltd.

5. It is stated by the Applicant that in the second meeting of the Committee of Creditors was held wherein the Resolution Professional apprised the members that the information Memorandum could not be prepared as the members of the suspended Board of Directors of the Corporate Debtor failed to provide the requisite documents.

6. It is informed by the Applicant that in fourth meeting held on 20.01.2021 the following resolution reproduced below was put to vote before the CoC :



ITEM No. 10: To discuss and consider the filing of an application with the Hon'ble National Company Law Tribunal, New Delhi bench under regulation 33(2) of IBC, 2016, for the initiation of liquidation and/or dissolution of the corporate debtor and to appoint the existing resolution professional as the liquidator and to fix the fee of liquidator thereof.

The Committee discussed the liquidation and liquidation process in details. The Committee also discussed the impact of the liquidation on the Corporate Debtor and possibility of realization of remaining assets of the Corporate Debtor.

The committee after discussion passed the following resolution unanimously:

"RESOLVED THAT in pursuant to Section 33 (2) of IBC 2016 and the Rules made thereunder, the consent of members of the COC be and is hereby accorded to approve the filing of an application with Hon'ble NCLT, New Delhi Bench, regarding the initiation or liquidation of Corporate Debtor and to appoint the existing RP, subject to given his consent to act as liquidator, as the liquidator of the Corporate Debtor.

RESOLVED FURTHER THAT the liquidator shall be entitled to a fee as per Regulation 4(2) of IBB: (Liquidation Process) Regulations, 2016 and out of pocket as per actual cost incurred by him.

RESOLVED FURTHER THAT the Resolution Professional be and is hereby authorized to submit an application before the Hon'ble Adjudicating Authority and to do all such acts, deeds and things as may be required or considered necessary or incidental thereto."

7. It is further submitted by the Applicant that the aforesaid Resolutions were passed by 100% voting share.

8. That the RP has also filed his written communication to act as Liquidator of the corporate debtor as required under Section 34(1) of the IBC, 2016.



9. In the circumstances and there being no other alternative, this Bench is inclined to accept the Resolution of the COC and order Liquidation of the Corporate Debtor.

10. In sequel to the above, the Application is allowed, ordering Liquidation of the Corporate Debtor, M/s. Victory Infratech Private Limited in the manner as laid down in the Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant Rules and Regulations along with the following directions:

- a. Mr. Aishwarya Mohan Gahrana, having IBBI Registration No. IBBI registration Number (IBBI/IPA-002/IP-N00135/2017-18/10351, is appointed as Liquidator, who has given his written consent to act as Liquidator in terms of Section 34 (1) of IBC 2016;
- b. The Liquidator, is directed to issue public announcement clearly stating that the Corporate Debtor is under Liquidation in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;
- c. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;



- d. This Order shall be deemed to be a notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- e. Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor to determine the undervalued and preferential transactions etc., if any.
- f. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five (75) days from the Liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.
- g. The Registry is directed to communicate a copy of the Order to the Financial Creditor, the Corporate Debtor and Liquidator Mr. Aishwarya Mohan Gahrana at the earliest but not later than seven days from today.
- h. A copy of this Order be sent by the Registry and Liquidator to the Registrar of Companies (RoC), NCT of Delhi & Haryana for updating the Master Data. After updating the Master Data, ROC shall send compliance report to the Registrar, NCLT within a period of 30 days;



- i. The Registry and Liquidator are directed to communicate a copy of this Order to the Insolvency and Bankruptcy Board of India for their record.

11. IA-719/ND/2021 filed in IB-1627(ND)/2019 is **allowed** in the aforesaid terms.



(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)



(BHASKARA PANTULA MOHAN)
MEMBER (JUDICIAL)