IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

I.A. 176 OF 2021

Under Section 33(1)(a) of Insolvency & Bankruptcy Code, 2016

Filed by
Mr. Vinod Kumar Ambavat
Resolution Professional of:
Shree Daksh Jyot Silk Mills Private Limited

...Applicant

In the matter of
C.P. No. 1016 of 2019

Mr. Vijal A. Jain

Proprietor of EPPAJ India

66/72, Manahar Building,

Dadiseth Agiyari Lane, Ground Floor,

Kalbadevi Road, Mumbai - 400002

...Petitioner

Versus

Shree Daksh Jyot Silk Mills Pvt. Ltd.

Survey No. 20, 695/2/5,

New Mulchand Compound,

Katai Village, Bhiwandi,

Thane - 421302

...Corporate Debtor

Order delivered on: 01.12.2021

Coram:
Hon'ble Shri H.V. Subba Rao, Member (Judicial)
Hon'ble Shri Chandra Bhan Singh, Member (Technical)

Appearance:
For the Resolution Professional: Mr. Kunal Kanungo, Advocate

1. The above application I.A. No. 176/2021 is filed by Resolution Professional, Mr. Vinod Kumar Ambavat seeking liquidation of Shree Daksh Jyot Silk Mills Private Limited (hereinafter referred as Corporate Debtor) under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as "the Code"), praying for following reliefs:

    a. *That this Hon'ble Tribunal be pleased to allow the present Application;*
    b. *That this Hon'ble Tribunal be pleased to pass an Order of Liquidation of the Corporate Debtor;*
    c. *That this Hon'ble Tribunal be pleased to pass any other reliefs as this Hon'ble Court may deem fit.*

2. The brief facts of the application are as follows:
    A. The applicant mentioned that this Tribunal vide its order dated 13.02.2020 in Company Petition No. 1016 of 2019 admitted the petition under Section 8 and 9 of the Code read with Rule 6 of Insolvency and Bankruptcy (Application to Adjuducating Authority) Rules, 2016 (hereinafter called as "the Rules"), filed by Mr. Vijal A. Jain (hereinafter referred to as the "Operational Creditor") and Corporate Insolvency Resolution Process (hereinafter referred to as the "CIRP") was initiated against Shree Daksh Jyot Silk Mills Private Limited, (hereinafter called as the "Corporate Debtor"). The applicant herein was appointed as the Interim Resolution Professional (hereinafter called as the "IRP") of the Corporate Debtor by this Tribunal vide this Order dated 13.02.2020.

B. In pursuance of the Order, the IRP had issued a public announcement in Form A published on 17.02.2020 in free Press Journal and Navshakti inviting claims from the Creditors and other stakeholders with the last date of claims announced as 29.02.2020.

C. The Committee of Creditors, (hereinafter called as the "CoC") held the first meeting the CoC held on 13.03.2020, in the said meeting the Applicant was appointed as the Resolution Professional of the Corporate Debtor to conduct the CIRP replacing IRP Mr. Vimal Kumar Agarwal of the Corporate Debtor in accordance with the relevant provisions of the Code.

D. It is further stated by the Applicant that an advertisement, inviting Expression of Interest (EoI) in Form G was published on 08.07.2020 on the IBBI website and in Free Press Journal and Navakal newspaper wherein the last date for the submission of EoI was 23.07.2020. The Applicant had proposed to publish an extended Invitation of EoI wherein the last date was extended till 14.08.2020.

E. It is stated that, no EoI was received till the last date of the submission, further there was on enquiry mail that had come from a potential Resolution Applicant. Therefore, after nothing down the same the CoC again consented to again issue a public announcement for a short period of 5 days with an intent for the resolution of the Corporate Debtor. Even after extending the Form G twice no EoI was received hence the members decided to next course of action.

F. The Applicant further stated that even after reminding the promoters of the Corporate Debtor for the submission of

Resolution Plan, no proposal was submitted, then the CoC decided to give time till 24.12.20202 to Suspended Board of Directors to revert if they come up with any Resolution Plan.

G. The CoC in its 6th meeting which was held on 06.01.2021, the Applicant informed the CoC that no fresh claims were received by the Applicant. Further, due to failure in receiving the Resolution Plan the Applicant advised the CoC Members to liquidate the Corporate Debtor for the maximization of interest of all the stakeholders/ creditors of the Corporate Debtor. The relevant extract of the Resolution passed and recorded in the 6th CoC meeting dated 06.01.2021 is reproduced herein below for ready reference:-

"TO CONSIDER & APPROVE THE LIQUIDATION OF THE CORPORATE DEBTOR UNDER SECTION 33 OF THE CODE, 2016.

RESOLVED THAT *Members of CoC is be and hereby approved & authorized the RP to sign & file application under section 33 of the Code.*

SUMMARY OF DECISION BASED ON VOTING OF ABOVE ITEM:

VOTING ITEM	**VOTING % REQUIRED**	**VOTING % ACHIEVED**	**DECISION**
To consider and approve the liquidation of the Corporate Debtor under Section 33 of the Code.	51.00%	100%	Accepted

TO DECIDE ON THE APPOINTMENT OF LIQUIDATION AND FIXING OF REMUNERATION FOR THE SAME.

"RESOLVED THAT *the approval of the CoC be and is hereby accorded to appoint Mr. Vinod Kumar Ambavat (IBBI Registration IBBI/IPA-001/IP-P00420/2017-18/10743) as Liquidator, in case the Resolution Plan not approved by COC/Hon'ble NCLT or resolution for Liquidation had been passed by the members of COC and be paid a monthly remuneration* of ₹2,00,000/- (Two Lakh Only), in addition to out of pocket expenses as may be incurred by him during the course of this process and applicable taxes."*

SUMMARY OF DECISION BASED ON VOTING OF ABOVE ITEM:

VOTING ITEM	**VOTING % REQUIRED**	**VOTING % ACHIEVED**	**DECISION**
To decide on the appointment of Liquidator and fixing of remuneration for the same.	51.00%	100%	Rejected

3. In reference to the extract form the above mentioned agenda regarding the appointment of the applicant as the liquidator and fixing remuneration for the same in the 6th CoC meeting was thereby rejected by the CoC members.
4. Thereafter, through an additional affidavit filed by the Applicant on 12.04.2021 in the current I.A. 176 of 2021, it was informed to the Bench that the M/s Invent Assets Securitisation & Reconstruction

Private Limited constitutes 100% of the CoC would like to appoint Mr. Indrajit Mukherjee as liquidator of the Corporate Debtor for conducting the process of Liquidation of the Corporate Debtor.

5. Heard the arguments of the counsel appearing for the Resolution Professional and perused the record. It is observed from the minutes of the 6th CoC meeting held on 06.01.2021 that the CoC has, with 100% majority, decided to liquidate the Corporate Debtor. As no resolution had been approved.
6. Mr. Indrajit Mukherjee, has agreed to act as a liquidator to carry on the process of Liquidation and given his consent to act as a Liquidator.
7. We have heard the Applicant and perused all the documents submitted by them. It is observed from the minutes of the 6th CoC meeting that the CoC has, with 100% majority, decided to liquidate the Corporate Debtor and relying on the settled principle of law regarding the Commercial Wisdom of the CoC, we hereby allow this Interlocutory Application Number 176 of 2021 and passed the following:

ORDER

1. The above I.A. No. 176/2021 is allowed and the Corporate Debtor Shree Daksha Jyot Silk Mills Private Limited is ordered to be liquidated.

   i. **Mr. Indrajit Mukherjee,** having (Registration No. IBBI/IPA-001/IP-P01533/2018-2019/12450) and having office at: 705, A Wing, Deep CHS, D.N. Nagar, Andheri (W), Mumbai - 400053, is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.

ii. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.

iii. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

iv. The Liquidator appointed under section 34(1) of the Code. Will have all 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.

v. That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.

vi. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.

vii. That the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

viii. That on having liquidation process initiated, 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.

ix. 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.

With the above directions, this application i.e. I.A. No. 1873 of 2021 is hereby allowed and disposed of.

Sd/-

CHANDRA BHAN SINGH
MEMBER (TECHNICAL)

Sd/-

H.V. SUBBA RAO
MEMBER (JUDICIAL)

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

15. I.A. 976/2021
I.A. 330/2021
I.A. 176/2021
I.A. 1368/2020
IN
C.P.(IB)-1016(MB)/2019

CORAM: SHRI H.V. SUBBA RAO, MEMBER (J)
SHRI CHANDRA BHAN SINGH, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **01.12.2021**

NAME OF THE PARTIES: Epppaj India

V/s

M/s Shree Daksh Jyot Silk Mills Pvt. Ltd.

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Counsel for the Resolution Professional, Mr. Kunal Kanungo and counsel of the Corporate Debtor, Mr. Bhushan N Mengade are present through virtual hearing.

I.A. 176/2021

The above application is filed by the Resolution Professional for Liquidation of the Corporate Debtor Company. The Above I.A. is allowed. Detailed order will follow.

List other pending applications on 07.01.2022.

Sd/-
CHANDRA BHAN SINGH
Member (Technical)

Sd/-
H.V. SUBBA RAO
Member (Judicial)