

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH
KOCHI

IA (IBC)/ 241/KOB/2023

In

CP (IBC)/57/KOB/2022

In the matter of:

An application under Sections 33 (1) read with Section 34 of the Insolvency and Bankruptcy Code, 2016 read with rule 11 & Rule 32 of NCLT Rules, 2016;

-And-

In the matter of:

K. J. Vinod, Resolution Professional of **Theasaurus Projects Pvt. Ltd.** (CD) having office at –Flat No.9, 3rd Floor, Block-A, Trident serenity, Nanjundapuram Road, Ramanathapuram, Coimbatore- 641 036;

...Applicant

-In-

In the matter of:

Small Industries Development Bank of India;

...Financial Creditor

-Versus-

Theasaurus Project Private Limited.

...Corporate Debtor

Coram:

Shri P. Mohan Raj : Member (Judicial)
Shri Satya Ranjan Prasad : Member (Technical)

Appearances (through Video Conference)

For the Applicant : Mr. A. G. Satyanarayana, Adv.

Order reserved on: 28.06.2023
Order pronounced on: 05.07.2023

ORDER

1. This application has been filed by **Mr. K.J Vinod**, Resolution Professional of Corporate Debtor – **Theasaurus Project Private Limited**. The Corporate Insolvency Resolution Process (**CIRP**) against the corporate debtor under



Section 7 of IBC, 2016 was admitted by this Adjudicating Authority on 16.03.2023 in CP (IBC)/57/KOB/2022 and consequently, the CIR Process commenced on the said date with Mr. K.J Vinod, appointed as Interim Resolution Professional. The applicant made necessary paper publications, took over the assets of the corporate debtor, verification of the claims as well as constituted the Committee of Creditors (“CoC”).

2. In pursuance of CIRP order the IRP effected public announcement in “*Indian Express*” in (Thrissur Edition) and “*Mathrubhumi*” in (Palaghat Edition) both on 18.03.2023. In response to the said newspaper publications claims were received and CoC was constituted with the two financial creditors. The applicant has not received any claims from the Operational creditors. The two Financial Creditors are Punjab National Bank, with 15.04% voting rights, and Small Industries Development Bank of India, with 84.96 % voting rights. The RP had received claims from Punjab National Bank and Small Industries Development Bank of India (SIDBI) for a sum of Rs. 25,71,141/- and Rs. 1,45,24,290/- respectively. Further filed the list of creditors and report certifying the Constitution of CoC with this Adjudicating Authority on 8th April, 2023.
3. It is submitted that on physical verification by the applicant in the building where the registered office of the CD situated as recorded in ROC, there is no sign of the existence of the CD and its business and based upon the subsequent investigation it is understood that the registered office was functioned in the rented premises and building owner confirmed that the company closed down its operation and vacated the premises.
4. It is further submitted that CIRP Intimation Letter was sent through speed post of the residential address of the suspended directors as per the data available from the ROC site, but the same stands returned. Further on discussion with the personal guarantor to the corporate debtor Mr. Prem



Shaji and the father of the suspended directors, come to know that one of the suspended directors namely Mr. Mukeshbhavan Sukes Karthikeyan, is not in India and is engaged in the same business somewhere in Middle East Countries and the other suspended director namely Mr. Mukeshbhava Mukesh Karthikeyan, is in India. Since the suspended management and shareholders are not traced and turned up and also none of the creditors showed interest in any Compromise or arrangements, the CoC found that there is no scope for any compromise and arrangement.

5. It is submitted that as per master data available in the ROC site, the last AGM was conducted on 30th September 2017, and the last Annual accounts were filed for the financial year ended 31st March, 2017. It is further submitted that the Fixed Assets/Current Assets as recorded in the Audited Financials 31st March, 2017 was not traceable based on the verification process conducted by the applicant.
6. In the 1st Committee of Creditors (CoC) meeting held on 13.4.2023, The CoC resolved to file a case against the suspended directors and others to trace them and ask them to hand over the assets of the company, its records, data/updated accounting backups. Hence, an application was filed under Section 19 (2) of the I & B Code, 2016 on 25.04.2023. Thereafter in the 2nd CoC meeting held on 28.04.2023 where the CoC informed the RP for the aforesaid reason to not take any steps for publication of Form G. Therefore, on the instructions and suggestion of the CoC members the expression of Interest (EOI) is not published as the CoC members are of the opinion that since the corporate debtor has no tangible and intangible assets of the corporate debtor. Therefore, the CoC members opted to go for the Liquidation of the Corporate Debtor.
7. Thereafter, the applicant submits that in the 3rd CoC meeting held on 08.05.2023 where the CoC taking on record has unanimously resolved that,



Mr. K.J Vinod, the existing RP/Applicant herein, was recommended to appoint as Liquidator for the liquidation process of the corporate debtor and the fee for the liquidator has also been fixed by the CoC.

8. It is submitted that the CoC has also resolved to appoint Mr. K.J Vinod, as the Liquidator of the Corporate Debtor. The said Mr. K.J Viond /Applicant has also consented to act as the Liquidator of the Corporate Debtor and given his written consent in Form AA.
9. Further, the applicant has also certified the compliance certification viz. Form-H under Regulation 39 (4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016
10. This present application is filed for liquidation with 100% voting of CoC members; further, no resolution plan was received, and there is no further scope for revival of the corporate debtor and the corporate debtor has no tangible and intangible assets of the corporate debtor. The CoC is empowered under Section 33 (2) of IBC, 2016 to file an application for liquidation through RP at any time before the approval of the resolution plan. In this case, no resolution plan was received, further, the corporate debtor is a not going concern. In the circumstances, the request of the applicant is conceded.
11. In the result, **Theasaurus Private Limited**, corporate debtor is **ordered to be liquidated**.
12. The applicant **Mr. K.J. Vinod**, Resolution Professional of corporate debtor, Theasaurus Private Limited, having his office at: Flat No. 9, 3rd Floor, Block-A, Trident serenity, Nanjundapuram Road, Ramanathpuram, Coimbatore – 641 036 has given a written consent dated 22.05.2023 to appoint him as a liquidator as required under Section 34 (1) of IBC,2016.



Hence, Mr. K. J Vinod, with **Registration No: IBBI/IPA-003/IP-N00291/2020-21/13451** is appointed as liquidator of corporate debtor Theasurus Project Private Limited.

13. The Liquidator is directed to forthwith take into his custody all the assets, Properties, and actionable claims of the corporate debtor and take necessary steps to ensure preservation, protection security and maintenance of those properties as provided under section 35(1)(b) & (d) of IBC 2016.
14. The Liquidator is directed to adhere to Section 33(1) (ii) & (iii) and discharge his powers and duties as specified under Section 35 to 41 of IBC,2016 and meticulously adhere to the Rules and Regulations issued by IBBI in this regard from time to time.
15. Public Notice as contemplated under section 33(1) of the Code shall be issued in one morning, English daily and in one morning regional language newspapers.
16. All the powers of the Board of Directors of the Corporate Debtor and of its key managerial personnel, shall cease to exist in accordance with section 34 (2) of the Code. These powers shall henceforth vest in the Liquidator. The personnel of the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as may be required by him in the Liquidation process of the Corporate Debtor.
17. 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 a 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.
18. 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 work



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men of the Corporate Debtor, except to the extent of the business of the Corporate Debtor continued during the liquidation process by the liquidator.

19. In terms of Section 33(1) (b) (iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, Kerala at Ernakulam, within whose jurisdiction the Corporate Debtor is registered.
20. The fee of Liquidator to be determined as provided under Regulation 4 of Insolvency and Bankruptcy Board of India (Liquidation process) Regulation 2016.
21. As per Regulation 13 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016, the liquidator shall submit a preliminary report to the Adjudicating Authority within 75 days from the liquidation commencement date providing various details/information as mentioned in the said regulation.
22. 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,
23. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

SATYARANJAN PRASAD Digitally signed by SATYARANJAN PRASAD
Date: 2023.07.05 16:45:15 +05'30'

Satya Ranjan Prasad
Member (Technical)

PANDIAN MOHAN RAJ Digitally signed by PANDIAN MOHAN RAJ
Date: 2023.07.05 13:29:20 +05'30'

P. Mohan Raj
Member (Judicial)

Signed on this, 05th day of July, 2023.

Supriya_P.S