IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – II, CHENNAI

IA/481/2021
in
CP/588/IB/CB/2017

(filed under Section 33(2) of the Insolvency and Bankruptcy Code, 2016)

In the matter of ***M/s. Summer India Weaving and Processing Mills Private Limited.***

C.V.Madhusudhanan
Resolution Professional of
M/s. Summer India Weaving and Processing Mills Pvt. Ltd.,
101, Indus Chambers,
Government Arts College,
Coimbatore – 641018.

... Applicant /Resolution Professional

Order Pronounced on 25th April 2022

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JUSTICE (Retd.) S. RAMATHILAGAM, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)

For Applicant : C.V.Madhusudhanan, RP

ORDER

***Per:* JUSTICE (Retd.) S. RAMATHILAGAM, MEMBER (JUDICIAL)**

This is an application filed under Section 33(2)of the Insolvency and Bankruptcy Code 2016 (in short 'IBC, 2016') seeking relief as follows:

> *(i) That this Hon'ble Adjudicating Authority may be pleased to pass an order for Liquidation of the Corporate*

Debtor namely M/s.Summer India Weaving and Processing Mills Private Limited.

(ii) That this Hon'ble Adjudication Authority may be pleased to pass an order that the C.V.Madhusudhanan, Resolution Professional (IBBI/IPA-002/IP-N00243/2017-18/10694) may be appointed as Liquidator for administering the Liquidation Process of the Corporate Debtor and.

(iii) To pass such further or other orders as may deem fit and proper in the facts and circumstances of the case and thus render justice.

2. In Section 7 application filed by the Financial Creditor against the Corporate Debtor viz., M/s. Summer India Weaving and Processing Mills Private Limited, this Tribunal vide order dated 27.10.2017 initiated the Corporate Insolvency Resolution Process (CIRP) in relation to the Corporate Debtor and appointed the Applicant herein as Interim Resolution Professional (IRP).

3. It is averred in the application that pursuant to the Applicant being appointed as IRP, he caused Public Announcement under Section 15 of IBC, 2016 in Form-Aon 09.11.2017 in English in "The Hindu" and in Tamil "Dina Thanthi" and invited claims in accordance with the provisions of IBC, 2016 and that the State Bank of India was the sole Financial Creditor of the Corporate Debtor. Further it is averred in the application that on 08.11.2017, the Hon'ble High Court

of Madras stayed the CIRP indefinitely. However, the aforesaid stay was dismissed as withdrawn vide its order dated 21.07.2020. Thereafter, it is submitted that the IRP has constituted the Committee of Creditors (CoC) with the sole Financial Creditor and the 1st Meeting of the CoC was held on 05.10.2020, wherein the Applicant was appointed to act as the Resolution Professional of the Corporate Debtor.

4. Pursuant thereto, it was submitted that the Applicant in accordance with Section 25 of IBC, 2016 appointed two IBBI Registered Valuer for each asset class for valuation of Land & Building of the Corporate Debtor. The Fair Value and Liquidation Value determined by the Registered Valuer was Rs.166.50 Lakh and Rs.116.50 Lakh respectively.

5. In the 2nd CoC meeting held on 11.01.2020, the CoC after taking into consideration the fact that the Corporate Debtor was not a running concern, in its commercial wisdom decided to liquidate the Corporate Debtor and also recommended the present Resolution Professional to act as the Liquidator of the Corporate Debtor. The Resolution passed by the CoC in its 2nd Meeting held on 11.01.2020 is extracted hereunder:

"Resolved that

- *Corporate Debtor had ceased operations during the year 2016 and has not commenced any operations till date*
- *That all the machineries of the Corporate Debtor are lying in disuse and requires repairs to bring them to workable condition as per valuation report of the registered valuers*
- *Corporate Debtor has no employees on its roll as on date*
- *That the land on which the factory building is situation is not owned by the Corporate Debtor and is owned partly by Summer India Textile Mills Private Limited (which is in liquidation) and partly by guarantors of Corporate Debtor and Summer India Textile Mills Private Limited*
- *That sale of properties of the Corporate Debtor is not possible without the sale of landed properties of Summer India Textile Mills Private Limited*
- *That the substratum of the CD is irretrievable lost and only sale of its assets along with the assets of Summer India Textile Mills Private Limited is only possibility.*
- *The Resolution Professional shall act as Liquidator upon passing of the Liquidation Order by the Adjudicating Authority on the existing terms and conditions."*

6. It is also seen from the records that the Applicant herein has accorded his written consent in Form AA to act as the Liquidator of the Corporate Debtor. However, it is seen from the IBBI website that the proposed Insolvency Professional does not possess a valid AFA as on date.

7. Under these circumstances, from the panel of Insolvency Professionals prepared by the IBBI for the period January 2022 to June 2022 **Ms. RENUKA DEVI RANGASWAMY having Registration Number [IBBI/IPA-001/IP-P-01863/2019 -2020/12871]**

email ID: jrassociatescbe@gmail.com, is appointed as the Liquidator of the Corporate Debtor to carryout the liquidation process subject to the following terms of the directions:

a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended upto date enjoined upon her.

b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.

c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority.

d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and to the Insolvency and Bankruptcy Board of India;

e) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the

Income Tax Department. In relation to other fiscal and regulatory authorities which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.

f) The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence.

g) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016.

h) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section - 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.

i) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further report as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.

j) Copy of this order be sent to the financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor, viz., company-in-liquidation.

8. The application IA/481(CHE)/2021stands **disposed of** with the aforesaid terms.

-Sd-
B. ANIL KUMAR
MEMBER (TECHNICAL)

-Sd-
Justice (Retd.) S. RAMATHILAGAM
MEMBER (JUDICIAL)

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