

**THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
I.A. 1997/2020
IN
Company Petition No. (IB) – 1575 (PB) /2019**

*Under Section 33(2) of the Insolvency and Bankruptcy Code, 2016
for liquidation of the corporate debtor*

IN THE MATTER OF:

M/s Emmegi S.p.A Italy

.... Financial Creditor

Vs.

M/s Emmegi India Private Limited

..... Corporate Debtor

AND

Through
Mr. Deepak Maheshwari,

.... Applicant/ Resolution Professional

Order Pronounced on : 23.12.2020

Coram:

**SHRI. B.S.V PRAKASH KUMAR
HON'BLE ACTG. PRESIDENT
SHRI. HEMANT KUMAR SARANGI
HON'BLE MEMBER (TECHNICAL)**

For the Applicant: Mr. Rakesh Singala, Mr. Anand Bajpai Adv(s).

ORDER

PER- B.S.V PRAKASH KUMAR ACTG. PRESIDENT

1. This is an application filed by the Resolution Professional, under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for issuance of directions for liquidation to Corporate Debtor, M/s. Emmegi India Private Limited.
2. The facts in brief are that the Financial Creditor, namely M/s Emmegi S.p.A Italy Private Limited, had filed a Company Petition under Section 7 of the Code bearing number IB- 1575 (PB)/2019 for initiation of Corporate Insolvency Resolution Process (CIRP), against the Corporate Debtor. The said application was admitted by this Tribunal on 22.10.2019 initiating CIRP against the Corporate Debtor and there in, appointed Mr. Deepak Maheshwari, as the Interim Resolution Professional (IRP).



3. Thereafter, the applicant had made the Public announcement in the prescribed Form-A and the same has been published in the newspapers on 15.11.2019 in vernacular language namely in, Financial Express and Jansatta in English and Hindi respectively, the copy of the same has been placed on record.
4. Thereafter, the Committee of Creditors has been constituted and the first meeting of CoC held on 12.12.2019, the applicant/RP had appointed as the Resolution Professional with the 100% voting rights, further, in the same CoC meeting the RP apprised the members of CoC that the operations of the Corporate Debtor Company had completely shut down, no current source of income or revenue shown in the balance sheet, capital of the company is fully eroded and no fixed and current assets left, rather than the nominal amount of Rs. 698/- as cash in hand.
5. Therefore, the members of the CoC in the same



meeting had initiated a preliminary discussion about the commencement of the liquidation proceedings against the Corporate Debtor under section 33(2) of the Code. However, no respective resolution was proposed during the first CoC meeting.

6. Thereafter, the second CoC meeting was constituted on 12.02.2020. The members of CoC deliberated the matter at length and reached to this conclusion that the revival of the Corporate debtor company does not look feasible.

7. Therefore, after having all the discussions and deliberations on the entire aspect, CoC decided to file a liquidation application before this Bench, accordingly resolutions were passed by the CoC with 100% voting share.

“RESOLVED THAT; pursuant to Section 33(2) of the Insolvency and Bankruptcy Code 2016 and other applicable provisions, if any, approval of Committee of Creditors be and is hereby accorded for the liquidation of the Corporate Debtor,

Emmegi India Private Limited and Mr. Deepak Maheshwari, Resolution Professional bearing Regn No. IBBI/IPA-002/IP-N00531/2017-18/11594 be and is hereby appointed as liquidator.

“ Further RESOLVED; that the Committee hereby authorized Mr. Deepak Maheshwari, Resolution Professional to make necessary applications to the Tribunal for approval of the liquidation of the Corporate Debtor not as a going concern and hereby direct him to submit the Recommendation of the Committee as above while filing for such approval with the NCLT and hereby authorizes Mr. Deepak Maheshwari to do all acts, deed, matter and things that may required to be done in this regard.”

8. In the result the application is hereby allowed by ordering liquidation of the corporate debtor, namely M/s Emmegi India Private Limited with following directions:

- a. The Mr. Deepak Maheshwari, holding Registration No. IBBI/IPA-002/IP-N00531/2017-2018/11594, having email- deepak@jindahilive.com is appointed

as the Liquidator in terms of Section 32(1) of the Code;

- b. Registry is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;
- 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 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. The Liquidator is directed to proceed with the process of liquidation in the manner laid down in



Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant rules and regulations.

- f. The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.
- g. The liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.
- h. The Liquidator shall submit Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016;
- i. Copy of this order be sent to the financial creditors,

corporate debtor and the Liquidator for taking necessary steps;

- j. IA. 1997(PB)/2020 filed in IB 1575/(PB)/2019 is disposed of in terms of the aforesaid terms.

Sd/-

(B.S.V PRAKASH KUMAR)

ACTNG PRESIDENT

Sd/-

(HEMANT KUMAR SARANGI)

MEMBER (TECHNICAL)