

NATIONAL COMPANY LAW TRIBUNAL
SINGLE BENCH
CHENNAI



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ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD AT 10.30 AM ON 09.07.2019

PRESENT: SHRI Ch. MOHD SHARIEF TARIQ, MEMBER - JUDICIAL

APPLICATION NUMBER : MA/454/2019
IN
PETITION NUMBER : CP/381/10/IB/CB/2018
NAME OF THE PETITIONER(S) : J.MANIVANAN RP
NAME OF THE RESPONDENT(S) : THIRIPURA CHITS PVT LTD
UNDER SECTION : SEC 33 OF IBC

S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
REPRESENTATION BY WHOM			

1.	K.howtham Kumar	Counsel for promoters	
2.	H. MUBARAK JAN	Counsel for RP	

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
SINGLE BENCH, CHENNAI**

MA/443/2019, MA/453/2019 and
MA/454/2019 in CP/381/IB/2018
filed under Section 33(2) of the
Insolvency and Bankruptcy Code, 2016

In the matter of **M/s. Thiripura Chits Private Limited**

Mr. J.Manivannan,

Resolution Professional of M/s. Thiripura Chits Private Limited

... Applicant

Order delivered on 09th of July, 2019

CORAM :

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

For Resolution Professional : Mr. J.Manivannan, RP in person

: Mr. H.Mubarak Jan, Counsel for RP

For Applicant in MA/443/2019 : Mr. K.Gowtham Kumar, Counsel

COMMON ORDER

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

Under consideration are three Applications Nos. MA/443/2019, MA/453/2019 and MA/454/2019. Since all the three Applications are pertaining to the CP/381/IB/2018, they are taken together to pass a common order.



I. MA/443/2019

1. The MA/443/2019 in CP/381/IB/2018 is filed by the erstwhile Directors viz., Mr. P.V. Krishnaprasad and Mr. Sumana of the Corporate Debtor under Section 60(5) of I&B Code, 2016 to exempt entire CIR Process period of the Corporate Debtor and to direct the IRP to make fresh public announcements in the State of Karnataka, Maharashtra, Telengana and Andhra Pradesh and thereby reconstitute the Committee of Creditors (CoC). The Counsel for the Resolution Professional has filed a reply stating therein that the depositors, as claimed by the Applicants, are not going to be benefited in any way if the entire CIR Process to be exempted and CIR Process is ordered to be recommenced. It is stated by the Counsel for the Resolution Professional that any extension of further time period will only demoralize the depositors whose only hope is to get back their hard earned money without any further delay.

2. It has been asserted that there is no lapse on the part of the Resolution Professional pertaining to the CIR Process and it will be in the interest of justice to order the liquidation of the Corporate Debtor viz., M/s. Thiripura Chits Private Limited in the manner as laid down under the Code. It is also placed on record that the Resolution Professional has filed MA/697/2018 which has been disposed of vide Order dated 19.03.2019. By virtue of the said Order, the entire attachment order was set aside and a direction was given to the Economics Offences Wing (EOW) to hand over the seized original documents to the Resolution Professional. However, the EOW has not yet handed over the documents, the Resolution Professional prayed for time to initiate appropriate proceedings against the EOW.

3. It is also noted that Applicant(s) in MA/443/2019 have arrayed the Director General of Police, Karnataka, Maharashtra, Telengana, Andhra Pradesh and Puducherry

as Respondents for forwarding the claims, if any, to the Resolution Professional, to which notices were sent and the Respondent No.4 viz., Director General of Police, Telengana was represented. The representative of R4 has submitted that time be granted for sending the available information to the Resolution Professional. There is no representation on behalf of the rest of the Respondents. However, the Resolution Professional is directed to coordinate with the Director General of Police, Karnataka, Maharashtra, Andhra Pradesh and Puducherry for seeking information and claims, if any, filed with those authorities.

4. After having examined the MA/443/2019 filed by the erstwhile Directors, it appears that the suggestion that has been propounded by the erstwhile Directors to exempt the entire CIR Process period for recommencing the CIR Process and to have public announcement afresh is without any base. The Resolution Professional after seeking the order of liquidation of the Corporate Debtor viz., M/s. Thiripura

Chits Private Limited is competent to make recoveries from the borrowers, as suggested by the suspended Directors. Therefore, MA/443/2019 stands **rejected**.

II. MA/453/2019

5. This MA/453/2019 in CP/381/IB/2018 is filed by the Resolution Professional to condone the delay of 9 days in filing MA/454/2019. The reason stated by the Applicant in the Affidavit is convincing and hence the delay of 9 days in filing MA/454/2019 is condoned. The MA/453/2019 filed in CP/381/IB/2018 is **allowed**.

III. MA/454/2019

6. The MA/454/2019 is filed by the Resolution Professional under Sections 33 (2) of the Insolvency and Bankruptcy Code, 2016, (in short 'I&B Code, 2016').

7. The prayers made by the Resolution Professional are as follows:

- a. *That the Hon'ble Adjudicating Authority may be pleased to pass appropriate orders that the Corporate Debtor i.e., Thiripura Chits Private Limited be liquidated in the manner as laid down under the Code.*
- b. *In terms of Section 33/34(1) of the Code to pass an order that existing Resolution Professional shall act as the Liquidator of the Corporate Debtor for the purpose of liquidation of the Corporate Debtor.*
- c. *For such other and further reliefs as the nature and circumstances of the case may require.*

8. It is recalled that CP/381/IB/2018 was filed under Section 9 of the I&B Code, 2016 by the Operational Creditor viz., Mrs. T. Preethi, against the Corporate Debtor viz., M/s. Thiripura Chits Private Limited to initiate CIR Process, which was admitted by this Authority vide Order dated 17.09.2018 and the Applicant viz., Mr. J. Manivannan, was appointed as Interim Resolution Professional (IRP) on 26.09.2018, who was later confirmed as Resolution

Professional by the Committee of Creditors (CoC) on 26.10.2018.

9. It is averred that vide Order of the Authority dated 26.09.2018, the IRP was supposed to take over the management of the Corporate Debtor and had issued the Newspaper Publication dated 01.10.2018 in two edition one in English and another in vernacular as per Regulation 6 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, inviting the claims from the creditors. After verification of the claims received, the IRP constituted CoC.

10. It is further averred that when the Resolution Professional had visited the registered office of the Corporate Debtor, it was found locked. From the various sources, the Resolution Professional learnt that the Managing Director and others Directors of the Corporate Debtor were arrested by the Economics Offences Wing-CID, Chennai and other regions, who are accused of cheating

numerous depositors and the books of accounts and other records of the Corporate Debtor were seized by the EOW authority and the same is under their custody.

11. It is further averred that the Resolution Professional has intimated the EOW department about commencement of CIR Process against the Corporate Debtor and requested to provide the necessary information of the Corporate Debtor, so as to enable the Resolution Professional to perform the duties under the I&B Code, 2016. But, the EOW replied that the records of the Corporate Debtor can be handed over subject to specific directions issued by the NCLT, Chennai and accordingly the Resolution Professional has filed appropriate Application. While disposing of the Application as mentioned in the preceding paragraphs, *inter alia* a direction was given to EOW to hand over records of the Corporate Debtor to the Resolution Professional.

12. It is averred that due to non-availability of the records of the Corporate Debtor, the Resolution Professional was

not able to appoint the Registered Valuers for determination of fair and liquidation value of the Corporate Debtor; and issuance of "Expression of Interest" ("EoI") and preparation of Information Memorandum in accordance with the I&B Code, 2016 r/w relevant Regulations. It is further averred that in the instant case, more than 80,000 deposit holders' interest is involved, out of which many deposit holders not even know how to submit their claim. Under such circumstance, the Resolution Professional was not able to identify the suspected transactions involving the Corporate Debtor, if any, which may be preferential, undervalued, extortionate credit and/or fraudulent, as mandated under Section 25(j), 43 to 51 and 66 of the Code. Further, the promoters and Directors are also facing ~~of~~ⁱⁿ criminal prosecution for the default, in making payment to the deposit holders.

13. It is stated that the Resolution Professional met Mr. Krishna Prasad, Managing Director and Ms. Sumana,

Director on 22.12.2018. Pursuant to the said meeting, they have given the detailed statement about the affairs of the Company and list of immovable properties held in the name of the Company. The same has been placed before the CoC for its records.

14. It is stated that in the 2nd meeting of the COC, it was decided not to seek extension of time beyond the period of 180 days for the CIR Process, as there is no hope for filing any Resolution Plan by the Resolution Applicants in respect of the Corporate Debtor. The aforesaid Resolution was voted and passed with 100% voting share.

15. It is stated by the Counsel for the Resolution Professional that it was impossible to get any Resolution Plan by CoC within the period of 180 days, the only recourse open is to pass an order to liquidate the Corporate Debtor in the manner as laid down in the Code and Regulations made thereunder.

16. Since no Resolution Plan is received by this Authority under Sub-section (6) of Section 30 of the I&B Code, 2016, before the expiry of the Corporate Insolvency Resolution Process period of 180 days, the Corporate Debtor has to be ordered for Liquidation.

ORDER

17. In view of the facts and circumstances recorded by Resolution Professional in MA/454/2019 filed in CP/381/IB/2018 and in exercise of powers conferred under Sub-Clauses (i) (ii) and (iii) of Clause (a) of Sub-Section (1) of Section 33 of the I&B Code, 2016, this Authority proceeds to pass Liquidation Order as follows:-

- I. This Authority hereby orders for liquidation of the Corporate Debtor viz., M/s. Thiripura Chits Private Limited, which shall be conducted in the manner as laid down in Chapter III of part II of the I&B Code, 2016;

- II. This Authority appoints the Resolution Professional viz., Mr. J. Manivannan, as Company Liquidator, who shall issue a public announcement stating therein that the Corporate Debtor is in liquidation;
- III. The moratorium declared under Section 14 of the I&B Code, 2016, shall cease to have effect from the date of the order of liquidation;
- IV. Subject to Section 52 of the I&B Code, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.
- V. This Authority makes it clear that Para (IV) hereinabove shall not apply to legal proceedings

in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.

- VI. This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- VII. All the 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 Company Liquidator viz., Mr. J. Manivannan. In addition to this, the Company Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the I&B Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

- VIII. The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.
- IX. The Company Liquidator shall be entitled to charge such fees for the conduct of the liquidation proceedings and in such a proportion to the value of the liquidation estate assets as specified under Regulation 4 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- X. The Registry is directed to communicate this order with immediate effect to the concerned Registrar of Companies, RD, OL, Registered Office of the Corporate Debtor and Company Liquidator viz., Mr. J.Manivannan, for information and compliance.



18. In terms of the above, MA/454/2019 filed in CP/381/IB/2018 by the Resolution Professional under Section 33(2) of the I&B Code, 2016, for initiation of the Liquidation Proceedings against the Corporate Debtor viz., viz., M/s. Thiripura Chits Private Limited is **allowed**.

19. The Order is dictated and pronounced in the open Court in presence of the Counsel for Resolution Professional and Counsel for the Applicant(s) in MA/443/2019.

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[CH.MOHD SHARIEF/TARIQ]
MEMBER (JUDICIAL)

P. ATHISTAMANI