

**THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

I.A. 1527/2021

IN

Company Petition No. (IB) – 1748(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. RELIANCE COMMERCIAL
FINANCE LIMITED

.... FINANCIAL CREDITOR

VERSUS

M/s. TWO BROTHERS BEVERAGE
PRIVATE LIMITED

.... CORPORATE DEBTOR

In the matter of:

SHRI VIJAY KUMAR
RESOLUTION PROFESSIONAL
(M/S. TWO BROTHERS BEVERAGE PVT. LTD.)

.... APPLICANT

Order Pronounced on: 20.05.2021

CORAM:

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

For the RP : Ms. Namrata Ranga, Ms. Priya Choubey,
Advocates

ORDER

PER- HEMANT KUMAR SARANGI, MEMBER (T)

1. This is an application filed by the Resolution Professional, under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “Code”) for issuance of directions for liquidation to Corporate Debtor, M/s. Two Brothers Beverage Private Limited, in view of the decision taken by the Committee of Creditors (“CoC”) in 10th Meeting of CoC held on 19.03.2021.
2. The facts in brief are that one of the Financial Creditors had filed an application under Section 7 of the Code, bearing number IB- 1748 (PB)/2019, for initiation of Corporate Insolvency Resolution Process (CIRP), against the Corporate Debtor. The said application was admitted by this Tribunal on 21.10.2019 initiating CIRP against the Corporate Debtor and therein appointed Mr. Shailender Singh, as the Interim Resolution Professional (“IRP”).
3. Thereafter, the Applicant had issued a public announcement in Form-A, which was published in ‘The Financial Express’ and ‘Jansatta’ , both NCR editions (Hindi Newspaper), calling on the creditors to submit their claims along with proofs. The said public announcement was also posted on the web site of Insolvency & Bankruptcy Board of India (“IBBI”).
4. It is stated that the IRP i.e., Mr. Shailender Singh was

replaced by Mr. Vijay Kumar at first CoC meeting on 21.11.2019 and CA No. 2728/2019 was filed on 03.12.2019 before this Tribunal to change the IRP. That Mr. Vijay Kumar was appointed to act as Resolution Professional by this Tribunal vide order dated 11.12.2019.

5. The Applicant states that the details of admitted claims are as follows;

- Claims by Financial Creditors
 - Total admitted claim of Financial Creditors (1 in no.)- Rs.59,196,919.00
 - Total admitted claims of Unsecured Financial Creditors (2 in no.)- Rs.9,370,477.00
- Claims by Operational Creditors
 - Total admitted claims of Operational Creditors (14 in no.)- Rs.74,253,657.00

6. It has further been stated that the completion of the Corporate Insolvency Resolution Process (“CIRP”), was supposed to be completed by on or before 19.04.2020, but due to pandemic caused by Novel Corona Virus no effective CoC or any progress was done in the present CIRP from 25th March, 2020 till October 2020. An I.A. No. 5221(PB)/ 2020 on behalf of Corporate Debtor through its RP was filed seeking extension of 90 days beyond 180 days which ended on 25.12.2020. The same was allowed vide order dated 02.12.2020.

7. It has been stated that in the 6th meeting held on 22.12.2020 through video conferencing (“VC”), whereby, at Item No. 1 the resolution “*for the extension of time for CoC for 60 days after 25-12-2020*”, was discussed and resolved with 100% voting shares of the CoC. Thereafter, an I.A. No. 635/2021 was filed on 24.12.2020 and the same was allowed by this Tribunal vide order dated 24.02.2021, whereby the CIRP period was extended till 23.02.2021.
8. In the seventh meeting of CoC, held on 11.01.2021, the RP informed the members about the progress so far in the CIRP, thereafter the invitation of EoI, eligibility criteria and evaluation matrix were discussed and finalised. The RP thereafter published the approved Form G in the Newspapers, Financial Express and Jansatta, on 12.01.2021, inviting EoI from Prospective Resolution Applicants (“PRA”) to be received by 27.01.2021. The RP also uploaded the Form G on the website of IBBI.
9. It is further submitted that the last date of submission of EoI along with Demand Draft was on or before 27.01.2021. Two PRAs submitted their EoI and one of the PRA namely, M/s. Pooja Marbles submitted EoI on 27.01.2021 and submitted the Demand Draft on 29.01.2021. The other PRA is M/s. Malik Needles & Allied Industries Pvt. Ltd. submitted EoI on 25.01.2021 and Demand Draft on 27.01.2021 with the RP.
10. Further, the RP informed the members of CoC that, as mandated by Regulation 27 of the Insolvency and

Bankruptcy Board of India (Insolvency Resolution Process of Corporate Debtor) Regulations, 2016, the following had been appointed to conduct the valuation of the assets of the Corporate Debtor. The valuation summary as submitted by the applicant is as follows:

Land and Building Valuation

S. No.	Description	Fair Value (in Rs.)	Liquidation Value (in Rs.)
1.	Mr. Nand Kishor Bharadwaj	2,98,00,000/-	2,38,40,000/-
2.	Mr. Kumar Pradeep	2,92,00,000/-	2,33,60,000/-
3.	AVERAGE	2,95,00,000/-	2,36,00,000/-

Plant and Machinery Valuation

S.No	Name of Valuer	Fair Value (in Rs.)	Liquidation Value (in Rs.)
1.	Mr. RS Yadav	2,95,43,496/-	2,34,76,374/-
2.	Mr. Anuj Kumar	2,73,91,553/-	2,32,82,820/-
3.	AVERAGE	2,84,67,524.5/-	2,33,79,597/-

Total value of the Unit

UNIT	FAIR VALUE	LIQUIDATION VALUE
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TWO BROTHERS BEVERAGE PVT. LTD	5,79,67,524.5/-	4,69,79,597.00/-
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11. It is further submitted that the last date of submission of the Resolution Plan was 18.03.2021 and the 10th CoC meeting was held on 19.03.2021, wherein, Resolution Applicant (Pooja Marbles) did not submit their Resolution Plan on or before 18.03.2021 and Resolution Applicant (Malik Needles & Allied Industries Pvt. Ltd.) submit their Resolution Plan and the same plan was rejected by the CoC members by 100%. That further CoC members discussed to liquidate the Corporate Debtor as there was no Resolution Plan accepted on 18.03.2021. As a consequence thereof, the CoC members authorised the RP to file liquidation application as per the provisions of Section 33(1)(a) of the Insolvency & Bankruptcy Code, 2016, RP has given his consent to act as liquidator. Hence, Mr. Vijay Kumar was appointed as a liquidator by the CoC members by 100% voting share.
12. In the result the application is allowed by ordering liquidation of the corporate debtor, namely M/s. Two Brothers Beverage Pvt. Ltd. with the following directions:
- a. That Mr. Vijay Kumar, the Resolution Professional of the Corporate Debtor, is relieved from the present assignment as Resolution Professional.
 - b. That Mr. Vijay Kumar, holding IP Registration No. IBBI/IPA-002/IP-N00652/2018-19/12020, is

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

- c. 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;
- d. 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;
- e. This order shall be deemed to be notice of discharge to all the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- f. 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.
- g. 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.
- h. 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.

- i. 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;
- j. Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator for taking necessary steps;
- k. I.A. 1527/2021 filed in IB- 1748(PB)/2019 is disposed of in terms of the aforesaid terms.

Sd/-

(B.S.V. PRAKASH KUMAR)
ACTG. PRESIDENT

Sd/-

(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)

20.05.2021