IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

MA No. 2759/2019
In
C. P. 31/I&B/2018

Under Section 33 of Insolvency & Bankruptcy Code, 2016

In the matter of

Oriental Bank of Commerce

... Financial Creditor

V/s.

Hotel Reeva Pvt. Ltd.

... Corporate Debtor

M.A. No. 2759/2019

Ms. Dipti Mehta

... Applicant/
Resolution Professional

Order delivered on 26.09.2019

Coram:
Hon'ble Shri Bhaskara Pantula Mohan, Member (Judicial)
Hon'ble Shri Shyam Babu Gautam, Member (Technical)

For the Applicant: Mr. Anup Khaitan, Advocate, i/b. Anup Khaitan & Co.

Per Shri Shyam Babu Gautam, Member (Technical)

ORDER

1. The Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor namely Hotel Reeva Pvt. Ltd. The Adjudicating Authority vide its order dated 31.10.2018 on a Petition filed by the financial Creditor under Section 7 of the Code, wherein Ms. Dipti Mehta, was appointed as Interim Resolution Professional (IRP). Thereafter on 01.12.2018 in the 1st Committee of Creditors (CoC) meeting Ms. Dipti Mehta, was resolved to be appointed as Resolution Professional (RP) and the same was approved by this Bench.

2. The RP submits that the public announcement was made on 03.11.2018, one in “Free Press Journal” in English and “Navshakti” in Hindi, fixing 16.11.2018 as the last date for submitting the claim. Subsequently, the RP constituted the CoC. The Oriental Bank of Commerce is the sole financial creditor.

3. The RP submits that the 2nd CoC held on 26.012.2018 wherein it was decided to appoint a Valuer, accordingly, RP had appointed two registered valuers as required under Regulation 27 of the IBBI (IRP for Corporate Persons) Regulations, 2016 and the Information Memorandum was prepared as provided under Regulation 36(1) of the said regulation. It is further submitted that in the 3rd & 4th meeting of CoC held consequently on 31.01.2019, 05.03.2019 an advertisement was issued, inviting Expression of Interest in Form G on 08.02.2019 and on 16.01.2019 fixing 31.01.2019 and as last date for submission of Expression of Interest by the Prospective Resolution Applicants.

4. It is submitted that the CIRP period was extended by 90 days w.e.f. 29.04.2019 and the CIRP extended came to an end on 27.07.2019. However, no resolution plan was received.

5. The Resolution Professional submits that in the 11th CoC meeting held on 31.01.2019, the CoC having 100% voting rights passed a resolution for liquidating the company in view of the fact that no Resolution Plan was received. Accordingly, the Resolution Professional filed this application for liquidation of the Company as provided u/s. 33 of the Insolvency & Bankruptcy Code, 2016 (Code).

6. The Applicant/ Resolution Professional Mr. Anuj Bajpai, has agreed to act as liquidator to carry on the process of liquidation and given his consent to act as Liquidator.

7. On hearing the submissions of the Applicant and on reading the Application and the documents enclosed therein, the RP has complied with the procedure laid down under, the Code read with Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (Regulations), for the valuation report filed by the valuer has not been disputed by the CoC, on verification of the papers/ documents placed before this Bench, we are of the considered view that this is a fit case to pass liquidation order

under sub-section 1 of section 33 of the Code as no resolution plan has been approved by the Adjudicating Authorityand accordingly, this Bench orders;

a. that the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.
b. that the Mr. Anuj Bajpai, Registration No. IBBI/IPA-001/IP-P00311/2017-18/10575, herein is hereby appointed as Liquidator as provided under Section 34(1) of the Code.
c. all the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.
d. that the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
e. that the liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by the IBBI and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.
f. that on having liquidation process initiated, 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 suit or other legal proceeding on behalf of the corporate debtor with prior approval of this Adjudicating Authority.
g. This liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.

8. Consequently, as stated supra, Resolution Professional is appointed as the Liquidator as provided under section 34(1) of the Code. All 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 liquidator;

9. Accordingly, this Misc. Application is hereby allowed directing the Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of theCode by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

Sd/-
SHYAM BABU GAUTAM
MEMBER (TECHNICAL)

Sd/-
BHASKARA PANTULA MOHAN
MEMBER (JUDICIAL)