(401)

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

IA(IBC)/973(CHE)/2022
IN
IBA/26/2020

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

In the matter of **SR MEDISERVICES PRIVATE LIMITED**

MR .S. KANNAN
[IBBI/IPA/001/IP-P00755/2017-18/11287]
Resolution Professional of
M/s. SR Mediservices Private Limited,
Skyline Castle, First Floor,
Abdul Razack Street,
Chennai – 600 015.

... *Applicant / Resolution Professional*

Order Pronounced on 13th April, 2023

CORAM

SANJIV JAIN, MEMBER (JUDICIAL)

SAMEER KAKAR, MEMBER (TECHNICAL)

For Applicant: Chandramouli Prabhakar, Advocate
R. Prithviraj Pandian, Advocate

ORDER

***Per:* SANJIV JAIN, MEMBER (JUDICIAL)**

The present application is filed by Mr. S. Kannan, the Resolution Professional of M/s. SR Mediservices Private Limited (hereinafter referred to as the 'Corporate Debtor') on 31.07.2022 before this Tribunal under Section 33(2) of the Insolvency

Bankruptcy Code, 2016 (hereinafter referred to as the 'Code') seeking the following reliefs,

> *"A. This Hon'ble Tribunal may be pleased to pass an Order for Liquidation of the Corporate Debtor M/s. SR Mediservices Private Limited (U74900TN2015PTC103470) pursuant to the Unanimous approval of the Committee of Creditors at the 4"CoC Meeting held on 20th July, 2022 as per Chapter III of the Insolvency & Bankruptcy Code, 2016 & the Regulations framed thereunder;*
>
> *B. Appoint the Resolution Professional herein Mr. S Kannan {IP Registration No. IBBI/IPA-00755} as the Liquidator of the Corporate Debtor M/s. SR Mediservices Private Limited upon the terms duly approved by the Committee of Creditors at the 4'CoC Meeting held on 20th July, 2022;"*

2. It is submitted that Corporate Insolvency Resolution Process in respect of the Corporate Debtor was initiated by this Tribunal vide order 04.10.2021 and the Applicant herein was appointed as the Interim Resolution Professional. It is stated that the Committee of Creditors (hereinafter referred to as the 'COC') was constituted with a sole member viz., Mr. V.G. Murali who is a Financial Creditor. Subsequently, the Applicant was retained by the COC to continue as the Resolution Professional.

3. It is submitted that the Resolution Professional could not trace any Books of Accounts / Financial Data and assets of the Corporate Debtor. As a result of the same, he was unable to reconstruct any books of accounts since the last available balance sheet was of 2016-17. It is further stated that the valuation as

mandated under the regulations and determination of any avoidance transactions as mandated under the Code could not be carried out owing to the reason stated above.

4. With respect to the premises at the registered office of the Corporate Debtor, the Resolution Professional submits that that another business in the name of *"Hycare"* was operating at the said address. With respect to the erstwhile management of the Corporate Debtor, the Resolution Professional submits that the Suspended Directors of the Corporate Debtor have not attended a single meeting of the COC and thus left the Resolution Professional in the dark to ascertain the details of the Corporate Debtor. The Resolution Professional had preferred an application (IA(IBC)/1262/2021) under Section 19(2) of the Code and the same is stated to be pending before this Tribunal.

5. It is also stated that the Corporate Insolvency Resolution Process was extended for a further period of 90 days by this Tribunal vide order dated 13.06.2022 in IA(IBC)/517(CHE)/2022 and consequently, the last date was fixed as 01.07.2022.

6. Considering the fact that the Financial Records of the Corporate Debtor were available till March, 2017, the Resolution Professional had not called for EoI (Expression of Interest) in 'Form – G' and as a result, there was no possibility of a Resolution Plan in

relation to the Corporate Debtor. The Resolution Professional had apprised the same to the COC and explained that the only other option available under the Code was to proceed with liquidation of the Corporate Debtor. Consequently, the COC on 20.07.2022 at its 4th Meeting unanimously resolved as under:

> "**Resolved** that the Resolution Professional can proceed for Liquidation of Corporate Debtor M/s. SR MEDISERVICES Private Limited, necessary application to be filed at the earliest to the Adjudicating Authority by the Resolution Professional Mr. S.Kannan through the Advocate Chandramouli Prabhakar. The Resolution Professional will be continuing as Liquidator for the Corporate Debtor."

As a result of the above resolution, the Resolution Professional is before this Tribunal to intimate the decision of the COC and seek liquidation of the Corporate Debtor.

7. When the present matter was posted for consideration and hearing on 22.11.2022, this Tribunal deemed it fit to direct the COC to reconsider its decision with respect to liquidation of the Corporate Debtor. The relevant portion of the said order is extracted as under:

> *"Counsel for RP / Applicant Mr. Chandramouli Prabhakar is present.*
>
> *This application filed by the R seeking liquidation of the Corporate Debtor under Section 33(2) of the code.*
>
> ***Ld. Counsel for the RP states that totally 330 days of CIR period has expired on 01.09.2022 and the sole CoC member has passed resolution to liquidate the Corporate Debtor.** He further states that admittedly there are no assets available for*

liquidation of the Corporate Debtor. ***Hence, we are of the opinion that though the resolution for liquidation was passed in July 2022, the CoC member to consider the decision of taking the Corporate Debtor in to Liquidation and accordingly file affidavit."***

8. Pursuant to the above direction, the Resolution Professional duly convened and conducted the 5th COC Meeting on 19.12.2022 where the following resolutions were passed:

> "**RESOLVED THAT** in light of the lack of any identifiable assets for Liquidation, negligible information available and remote chances of recovery from the Suspended Directors and prevent further wasteful expenditure in connection with the CIRP/ Liquidation of the Corporate Debtor, approval of the Committee of Creditors be and is hereby accorded to the Resolution Professional to Proceed for Dissolution of the Corporate Debtor.
>
> **RESOLVED FURTHER THAT** the Resolution Professional be and is hereby permitted to take such necessary steps before the Hon'ble Tribunal towards necessary endorsements/filing fresh application towards the same.
>
> **RESOLVED FURTHER THAT** the Committee of Creditors shall bear any expenses incurred towards Dissolution of the Corporate Debtor until the date of dissolution of the Corporate Debtor by the Hon'ble Tribunal."

Perusal of the above would reveal that the COC has consciously decided to proceed with the liquidation of the Corporate Debtor as resolved earlier in the 4th COC meeting. It is only on this basis, Resolution Professional has prayed for liquidation of the Corporate Debtor. It is further stated that the COC is of the firm opinion that there is no possibility to revive the Corporate Debtor on the basis of material available, since it has not been running as a going concern for several years.

9. In this case, the Resolution Professional has submitted his Compliance Certificate in 'Form – H' as per Regulation 39 (4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016 and the same is placed on record at page 85-89 of the Application. Further, the Applicant / RP has accorded written consent in 'Form – AA' to act as the Liquidator of the Corporate Debtor. On verification in the official website of IBBI, it is seen that the Applicant / Resolution Professional has a valid Authorisation for Assignment (AFA) till 08.12.2023.

10. Considering the submission of the Resolution Professional and that 330 days period of Corporate Insolvency Process has expired on 01.09.2022 and that no Resolution Plan is possible in the circumstances of the present Corporate Debtor, this Tribunal reasonably concludes that this present application deserves to be allowed and liquidation be ordered in the matter. We hereby order for liquidation of the Corporate Debtor.

11. **Mr. S. Kannan** with **Reg. No: [IBBI/IPA/001/IP-P00 755/2017-18/11287] (e-mail ID: charitarthkannan@gmail.com)** is appointed as the Liquidator of the Corporate Debtor to carry out 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, 2016 as amended up to date enjoined upon him.

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 a suitable application before this Adjudicating Authority.

d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and 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 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 reports as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.

j) Further, the Liquidator appointed Supra is directed to take steps to sell the Corporate Debtor as a Going Concern.

12. With the above directions, **IA(IBC)/973(CHE)/2022** stands **Allowed** and **Disposed of.**

13. Copy of this order be sent to the Ex-management, Creditors and Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary cooperation in relation to the Liquidation process of the Corporate Debtor, viz., company-in-liquidation.

-Sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-

SANJIV JAIN
MEMBER (JUDICIAL)

V.Shreekumar