

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD

I.A. NO. 432 OF 2018

IN

CP (IB) No.171/9/HDB/2018

U/s 33 (2) & other applicable provisions of IBC, 2016

IN THE MATTER OF VST WEAVERS INDIA PRIVATE
LIMITED vs. SPADS TEXTILES LIMITED

S.Muthuraju

Resolution Professional for

Spads Textiles Limited

5- 4-726, Station Road,

Nampally, Hyderabad – 500001, TelanganaApplicant

Date of order: 22.08.2019

Coram:

Hon'ble Shri Ratakonda Murali, Member (Judicial)

Hon'ble Shri Narender Kumar Bhola, Member (Technical)

Parties / Counsels present


For the Applicant: Shri Naresh Kumar Sangam,
Advocate


Heard on: 08.08.2019

**Per: SHRI RATAKONDA MURALI
Member (Judicial)**

1. Under consideration is the Application filed under Section 33(2) of the Insolvency & Bankruptcy Code, 2016, by the Applicant / Resolution Professional

seeking an order of Liquidation in respect of Spads Textiles Limited (Corporate Debtor).

2. The averments germane to the Application in brief:-
- (1) That this Tribunal vide its order dated 01.06.2018 admitted the Petition filed under Section 9 of the IBC by VST Weaves India Private Limited / Operational Creditor and appointed the Applicant herein as Interim Resolution Professional.
 - (2) Pursuant to above order the Applicant issued public announcement in news papers in Form A on 09.06.2018 inviting submission of claims. The Applicant after collating the claims received by the Applicant, constituted the Committee of Creditors consisting of sole Financial Creditor of the Corporate Debtor (i.e., State Bank India). In all the Resolution Professional conducted three meetings of CoC.
 - (3) That the Committee of Creditors at its First Meeting held on 09.07.2018 appointed the Applicant as Resolution Professional. Further Committee of Creditors at its meeting held on 24.08.2018 approved to issue expression of interest. Accordingly the Applicant published expression of interest (EOI) in Form G under Regulation 36A (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 on 27.08.2018. The last date for receiving EOI was fixed as 08.09.2018.
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- (4) Since Applicant did not receive any Expression of Interest for the Resolution Plan, the Committee of Creditors at their meeting held on 20.09.2018 resolved to liquidate the Corporate Debtor and directed the Applicant to make an application seeking orders of this Tribunal for liquidation of the Corporate Debtor under Section 33(2) of the Code.
3. We heard the Counsel for CoC and also the Counsel for Resolution Professional. We have gone through the averments of the Application and the enclosures thereto. This Application is filed by Resolution Professional under Section 33 (2) of I & B Code praying the Tribunal to pass an order of Liquidation against Corporate Debtor M/s Spads Textiles Limited on the sole ground that the Resolution Professional has not received any Expression of Interest.
4. We have seen the minutes of the 3rd CoC meeting held on 20.09.2018. The CoC resolved to move an Application before the Adjudicating Authority by the Applicant for passing of order of Liquidation as no Resolution Plan was received by the Resolution Professional.
5. Section 33 (2) deals with passing order of liquidation. Counsel for Applicant contended that Adjudicating Authority has power to pass liquidation order under Section 33 (2) of the Code. Section 33 (2) reads as under:-
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“Where the Resolution Professional, at any time during the Corporate Insolvency Resolution Process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).

Here, Resolution Professional did not receive any Resolution Plan for approval of the CoC. Thus, on the instruction of CoC, the Applicant moved an Application under Section 33 (2) of the Code seeking an order of Liquidation on the ground that no resolution plan is received.


ORDER


6. The Application is allowed and Corporate Debtor M/s Spads Textiles Limited is ordered to be liquidated.
7. Shri S. Muthuraju, Resolution Professional is appointed as Liquidator who will submit his written consent within a week.
8. 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 in the Liquidator.
9. We hereby direct the personnel of the corporate Debtor to extend all assistance and cooperation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.



10. Since Liquidation order has been passed no suit or other legal proceedings shall be instituted by or against the Corporate Debtor, save and except as mentioned in Section 52 of the Code, as to institution of legal proceedings by the Liquidator, he is at liberty to initiate suit or legal proceedings with prior approval of this Adjudicating Authority, but this direction shall not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
 11. We hereby direct that the fee shall be paid to the Liquidator as envisaged under Regulation 4 of IBBI (Liquidation process) Regulations, which forms part of the liquidation cost.
 12. The Liquidator appointed herein is directed to issue public announcement stating that the Corporate Debtor is in liquidation and also required to send the copy of this order to the concerned Registrar of Companies as required under Section 33 (1) of the Code.
 13. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of Insolvency and Bankruptcy Code, 2016 by following the liquidation process given in IBBI (Liquidation Process) Regulations, 2016.
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14. As per Regulation 13 the liquidator shall submit a preliminary report to the Adjudicating Authority within 75 days from the liquidation commencement date providing various details/information as mentioned in the said Regulation.


(Narender Kumar Bhola)
MEMBER (TECHNICAL)
22.8.19


(Ratakonda Murali)
MEMBER (JUDICIAL)
22/8/19

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