IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT-III, MUMBAI BENCH

M. A. No. 3805 of 2019
In
C. P. No. 2346 of 2018

Under Section 33 of Insolvency & Bankruptcy Code, 2016

In the matter of

Lexcorp Advisory Services Pvt. Ltd.
... Operational Creditor

V/s.

Ada Cellworks Wireless Engineering Pvt. Ltd. ... Corporate Debtor

M.A. No. 3805/2019

Mr. Manojkumar Jain

... Applicant/
Resolution Professional

Order delivered on 18.02.2020

Coram:

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

Appearance:

For the Applicant: Mr. Yahaya Batatawala, Advocate

Per Shri Shyam Babu Gautam, Member (Technical)

ORDER

1. It is an application filed by the Resolution professional seeking liquidation of the Corporate Debtor namely (Ada Cellworks Wireless Engineering Pvt. Ltd.) on the ground that no resolution plan has been received by him, hence this application under Section 33 (1) of the Insolvency and Bankruptcy Code, 2016, praying following reliefs:
    a. *"This Hon'ble Tribunal may be pleased to pass an order for liquidation of the Corporate Debtor under section 33 of the Insolvency and Bankruptcy Code, 2016;"*

2. The Adjudicating Authority vide its order dated 11.07.2019 on a Petition filed by the Operational Creditor under Section 9 of the Code directed initiation of the Corporate Insolvency Resolution Process (CIRP) against

the Corporate Debtor namely Ada Cellworks Wireless Engieering Pvt. Ltd. The present Applicant was appointed as Interim Resolution Professional (IRP). and thereafter on 29.08.2019 in the 1st Committee of Creditors (CoC) meeting IRP, was resolved to be appointed as Resolution Professional (RP) and the same was approved by this Bench.

3. The RP submits that the public announcement was made on 31.07.2019, one in "Financial Express" in English and "The Global Times" in Marathi, fixing 16.08.2019 as the last date for submitting the claims.

4. The CoC in its meeting held on 10.10.2019 decided to appoint a Valuer. The RP accordingly 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.

5. It is further submitted that an advertisement was issued, inviting Expression of Interest (EoI) in Form G on 16.09.2019 fixing 28.09.2019 as last date for submission of Expression of Interest and last date for submission of Resolution Plan by 31.10.2019, by the Prospective Resolution Applicants.

6. Hence, the CoC in its 4th meeting held on 20.11.2019, 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).

7. The Applicant submits that the valuation of the assets of the Corporate Debtor as received from the valuers which are as under:

Valuer	**Book Value (₹)**	**Fair Value (₹)**	**Liquidation Value (₹)**
Krunal Manojbhai Seth	1,14,25,372.95	5,28,292.71	5,28,292.71
Hemal Parikh	1,14,25,373	5,28,293	5,28,293

NATIONAL COMPANY LAW TRIBUNAL

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

9. Upon hearing the submissions of the Applicant and on perusal of the Application and the documents enclosed therein it is found, the RP has complied with the procedure laid down under, the Code Regulation made thereunder. 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 for liquidation in the absence of any resolution plan. Hence ordered;

ORDER

a. The Miscellaneous Application is hereby allowed.

b. That the Manojkumar Jain, Registration No. IBBI/IPA-003/IPA-001/IP-P00535/2017-2018/10960, herein is hereby appointed as Liquidator as provided under Section 34(1) of the Code.

c. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as mentioned in the 4th CoC meeting held on 20.11.2019 have decided the fees of the Liquidator and passed following resolutions: -

"RESOLVED THAT Mr. Manojkumar Jain who has already given his consent, be and hereby appointed as the Liquidator for carrying out liquidation process of Ada Cellworks Wireless Engineering Pvt. Ltd. subject to the approval of Adjudicating Authority at Professional Fees ₹7,00,000/- (inclusive of out of pocket expenses plus taxes if any till the completion of liquidation process. Pursuant to section 39B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 as amended upto 25.07.2019."

"RESOLVED FURTHER THAT in addition to the Professional fee, other costs such as fees payable to Tax consultant, Legal Counsel, Public Announcement and other liquidation related

costs etc. were likely to be incurred during Liquidation be and is hereby approved by the CoC"

d. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

e. 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.

f. 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.

g. 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.

h. 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.

i. 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.

राष्ट्रीय कम्पनी विधि अधिकरण NATIONAL COMPANY LAW TRIBUNAL मुंबई न्यायपीठ MUMBAI BENCH

Sd/-	Sd/-
SHYAM BABU GAUTAM	**BHASKARA PANTULA MOHAN**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL**

Certified True Copy
Copy Issued "free of cost"
On 25-02-2020