

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH - II
KOLKATA

IA(IBC)/663(KB)2022
in
CP(IB)/306(KB)2020

Under section 33(2) of the Insolvency & Bankruptcy Code, 2016

In the matter of

Rohit Ferro Tech Ltd.

...Operational Creditor

Versus

Chirag Vyapaar Private Limited
(CIN: U51109WB2008PTC122342)

...Corporate Debtor

And

In the matter of

Mr. Daulat Ram Jain,
Resolution Professional of Chirag Vyapaar Private Limited

... Applicant

Order reserved on: 22/08/2022

Order pronounced on: 30/08/2022

Coram:

Shri Rohit Kapoor : Member (Judicial)

Shri Balraj Joshi : Member (Technical)

Appearances (through video conferencing):

For the Applicant : Mr. Rahul Parasrampurua, PCS
Mr. Daulat Ram Jain, RP in person

ORDER

Per: Rohit Kapoor, Member (Judicial)

1. This Adjudicating Authority convened through hybrid mode.
2. IA(IBC)/663(KB)2022 is an application filed by the Resolution Professional of Chirag Vyapaar Private Limited, the Corporate Debtor, on the ground that the Committee of Creditors (in short “CoC”) at its 2nd meeting held on 21/05/2022 has passed a Resolution with 100% voting share for liquidation of the Corporate Debtor.
3. This Adjudicating authority *vide* order dated 01/04/2022 in CP(IB)/306(KB)2020 had ordered initiation of CIRP against the Corporate Debtor and appointed Mr. Daulat Ram Jain as the Interim Resolution Professional. Public Announcement¹ was published on 05/04/2022 one in “*Business Standard*” (English) and one in “*Aajkal*” (Bengali) and Committee of Creditors² was duly constituted on 22/04/2022. CoC at its first meeting³ held on 28/04/2022 has confirmed the appointment of the Interim Resolution Professional as the Resolution Professional.
4. The CoC at its 2nd meeting held on 21/05/2022 has recommended liquidation of the Corporate Debtor with 100% voting share on the ground that the Corporate Debtor does not have any tangible assets, approving appointment of Resolution Professional as Liquidator. It has been further stated in the CoC minutes that the Corporate Debtor has accumulated losses of nearly Rs.5.02 Crores approx. as on 31/03/2022 against the Capital Account of Rs. 1.26 Crores as such the Valuation of Financial Assets is not desirable. CoC was also of the view that the Financial Assets valuation is of no use in the light of

¹ Paragraph 2 at page 9 of the application

² Paragraph 3 at page 9 of the application

³ Paragraph 4 at page 9 of the application

Negative Capital Account of the Corporate Debtor. A copy of the Minutes⁴ of the 2nd CoC meeting dated 21/05/2022 is annexed with the application as **Annexure – “A”**

5. The Resolution Professional has given his consent⁵ to act as a Liquidator of the Corporate Debtor along with his Authorisation of Assignment valid till 21/04/2023, copies whereof are annexed with the application as **Annexure “B”**.
6. Section 33(1)(a) of the Code mandates that the Adjudicating Authority shall pass an order of liquidation where no resolution plan is received before the expiry of the CIRP. Sub-section (2) thereof requires the Adjudicating Authority to pass the liquidation order where the Resolution Professional intimates to the Adjudicating Authority the decision of the Committee of Creditors approved by not less than 66% of the voting share to liquidate the Corporate Debtor.
7. Reading these two provisions together, this Adjudicating Authority is left with no option but to order liquidation of the Corporate Debtor.
8. This Bench, therefore, hereby orders as follows: -
 - a. IA(IBC)/663(KB)2022 filed by Mr. Daulat Ram Jain, RP of **Chirag Vyapaar Private Limited**, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;
 - b. **Mr. Daulat Ram Jain [Reg. No. IBBI/IPA-001/IP-P00945/2017-18/11565]**, having e-mail i.d. daulatjain@rediffmail.com and mobile nos. +91 9830059845 and +91 7003198184 is hereby appointed as Liquidator as provided under section 34(1) of the Code, subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency

⁴ Annexure “A” at pages 17 to 20 of the application

⁵ Annexure “B” at pages 21 & 22 of the application

Professional Agency (IPA) of which he is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019.

c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, *i.e.*, “*Business Standard*” (English) and “*Aajkal*” (Bengali) of Kolkata edition of the said newspapers stating that the Corporate Debtor is in liquidation.

e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.

f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

g. On initiation of the liquidation process but 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, as provided in section 33(5) of the Code read with its proviso.

h. In accordance with section 33(7) of the Code, 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.

i. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, Kolkata, within whose

jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.

9. The application bearing **IA(IBC)/663(KB)2022** shall stand disposed of in accordance with the above directions.
10. **CP(IB)/306(KB)2020** is to come up for filing of periodical report on **15/11/2022**.
11. A copy of this order shall also be sent to the IBBI for information.
12. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
13. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Balraj Joshi
Member (Technical)

Rohit Kapoor
Member (Judicial)

Signed on this, the 30th day of August, 2022.

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