

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI**

IA/505/IB/2020 in CP/1174/2019
filed under Section 33 (2) of the
Insolvency and Bankruptcy
Code, 2016

In the matter of M/s. Bhareth Formulations Private Limited

Ms. Revathi Sridharan, RP
of M/s. Bhareth Formulations Private Limited
S1, A Vlock Kgeyes Apoorvaa Apts.,
No.2, Nolambur Main Road,
Gangaiamman Nagar Extn
Nolambur, Chewnnai-600095

---Applicant

CORAM

R. SUCHARITHA, MEMBER (JUDICIAL)
S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Applicant: *Mrs. Revathi Sridharan, RP*

ORDER

Per: S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

Order Pronounced on: 05.08.2020

It is an application filed u/s 33(2) of the Insolvency & Bankruptcy Code, 2016 (“**the Code**”) by the Resolution Professional of M/s. Bhareth Formulations Private Limited (hereafter referred as “**Corporate Debtor**”) seeking directions for liquidation of the Corporate Debtor based on the resolution passed by CoC in its 5th

meeting held on 05.02.2020 with 100% voting approval and appointment of RP as Liquidator.

2. From the averments made by the Applicant, it is evident that the CIRP of the Corporate Debtor was initiated on 20.03.2019 and the Applicant herein was appointed as Interim Resolution Professional (IRP) on 20.03.2019. Subsequently on 22.03.2019, the IRP caused public announcement in newspapers calling for the claims from the Creditors of the Corporate Debtor. The IRP had received a claim from the following financial creditor:

Name of Creditors	Amount claimed by the Creditors (in Rupees)	Amount Admitted(in Rupees)	% of voting share	Class of Creditor
Bank of India	23,32,93,676/-	23,32,93,676/-		Secured Financial Creditor
Total	23,32,93,676/-	23,32,93,676/-	100%	

2. Pursuant to the claim received, the CoC was constituted on 08.04.2019 and the 1st meeting of the CoC was held on 15.04.2019. Thereafter, the CoC resolved to appoint the Applicant as the

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Resolution Professional on 15.04.2019. During the CIRP, the Applicant/RP visited the registered office of the Corporate Debtor and found there was no office as registered in the records of Ministry of Corporate Affairs. Mr. C. Murale, the Director of the Corporate Debtor informed the Applicant/RP that he was functioning from another office as the registered office was sold and the proceeds were paid to the Financial Creditor towards loan dues.

3. The Applicant/RP submitted that the annual accounts of the Corporate Debtor have been made only upto 31.03.2014. According to the communication received from Mr. C. Murale, the Director of the Corporate Debtor, during December 2015 all the records, stock and raw materials were destroyed in the floods that occurred in Chennai and hence the accounts could not be made for the subsequent years. All the bank accounts of the Corporate Debtor were seized and at present there is no Bank account operative in the name of Corporate Debtor as per the details made available to the Applicant. According to the RP, the Financial Creditor's (Bank of India) loan to Corporate Debtor were secured by stocks and

receivables of the Corporate Debtor and personal assets of the Promoter Director and his relatives, against the loan amount of Rs.26,44,52,300/- liable to be recovered from the Corporate Debtor.

4. It is also evident from the averments in the application that on the directions of CoC at their meeting held on 21.08.2020, MA/1010/2019 u/s.66 & 67 was filed before the NCLT, Chennai Bench and order reserved on 05.12.2019. As shown in Form-H that there is no fair value fixed for the assets. However, liquidation value has been shown as Rs.1,54,73,430/- (*subject to Order in MA/1010/2019 under Section 66 & 67 of the IBC pending before the NCLT, Chennai Bench*).

5. Learned Counsel for the Applicant/RP, submitted that with the consent of the CoC, obtained extensions of CIRP period twice, upto 330 days. Present application has been filed on 10.02.2020 prior to the expiry of extended period i.e. on 12.02.2020. It is further submitted that as decided in the 5th CoC meeting held on 05.02.2020, the RP expressed his consent to act as Liquidator and the written consent was filed by the RP on 05.02.2020. Accordingly, the

Applicant has filed the present Application before this Authority under Section 33(2) of IBC, 2016 for the Liquidation of the Corporate Debtor.

6. In the backdrop of material and documents submitted by the applicant/RP, it is seen that no assets are available which could be utilized by the Resolution Professional towards the extinguishment or reduction of the loan obtained from the Financial Creditor (Bank of India). Further, the RP has stated in para-10 of the present application that MA/1010/2019 made by the RP seeking for a direction to the Corporate Debtor to repay Rs.1,54,73,430/- and the above case is reserved for orders and pending. The Applicant/RP has submitted that the order, if any, favourably granted in MA/1010/2019 will form the only asset of the Corporate Debtor there being no other assets are available or traceable by the RP.

7. In view of this, that there is no other recourse but to order for the liquidation of the Corporate Debtor under Section 33 of the Insolvency and Bankruptcy Code, 2016. Accordingly, **Mrs. Revathi Sridharan**, Reg. No. [IBBI/IPA-002/ IP-N00231/2017-18/10682], 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, 2017 as amended upto 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 suitable application before this Adjudicating Authority.
- d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and to 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 governs 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 that 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 report as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.
- j) Copy of this order be sent to the Financial Creditor, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the

Liquidation process of the Corporate Debtor, viz., company-in-liquidation.

8. The application IA/505/IB/2020 stands **disposed of** with the aforesaid directions.

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[S. VIJAYARAGHAVAN]
Member (Technical)

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[R. SUCHARITHA]
Member (Judicial)

TJS/KNP