

In the National Company Law Tribunal
Mumbai Bench.

MA 1371/2019 in CP (IB)-1427/2017

Under Section 33 of Insolvency & Bankruptcy Code, 2016

In the matter of

Bell Finvest India Limited : Petitioner/ Financial Creditor

V/s.

1. OMKAR Deepak Kanegaonkar
2. Prajakta Deepak Kanegaonkar
(Suspended Directors of Uttung
Health & Wellness Pvt. Ltd. : Respondent/ Corporate Debtor

Order delivered on: 23.09.2019

Coram:

Hon'ble Shri M.K. Shrawat, Member (Judicial)
Hon'ble Shri Chandra Bhan Singh, Member (Technical).

For the Petitioner(s) : 1. Mr. Vinit J. Mehta, i/b. Pravin Warpe,
Advocate, a/w. Subhodh Lende, Counsel for
Applicant.
2. Mr. Bhupendra Singh Rajput,
Resolution Professional.

Per M.K. Shrawat, Member (Judicial).

ORDER

1. This Miscellaneous Application (**MA 1371/2019**) was filed on 09.04.2019 by the Learned Resolution Professional/ Applicant Mr. Bhupendra Singh Rajput u/s.33 of The Code for initiating "Liquidation process" against the Corporate Debtor, M/s. Uttung Health & Wellness Pvt. Ltd. and the prayers are as under:-

"(A) To pass an order under Section 33 of the Insolvency and bankruptcy Code, 2016 to initiate the Liquidation

Process against the Corporate debtor.

(B) To pass an order for appointment Mr. Reddy to act as Liquidator of the corporate debtor."

2. An Order was passed on 20.04.2018 "Admitting" the Petition u/s.7 of The Code against the Corporate Debtors **M/s. Uttung Health & Wellness Pvt. Ltd.** and Mr. Bhupendra Singh Rajput, Registration No. IBBI/IPA-001 IP-P00397/2017-18/10715 was appointed as Interim Resolution Professional to conduct the Corporate Insolvency

Resolution Process against the above Corporate Debtor. It is a case of Financial Debt of Rs.1.90 Crore (Principal amount) with Interest, Rs.3,96,07,727/- claimed; that was defaulted by the Corporate Debtor.

3. The appointed Interim Resolution Professional has informed that Public Announcement was made as per the provisions of Regulation 6 of the Insolvency Process for Corporate Persons Regulations 2016 on 26.05.2018. On the basis of claims received, **First Committee of Creditor's** meeting was held on 20.06.2018 and Mr. Bhupendra Singh Rajput (IRP) was unanimously agreed and confirmed as Resolution Professional.
4. In the **Second Committee of Creditors** Meeting held on 17.11.2018 it was decided to seek extension of 90 days' time for Corporate Insolvency Resolution Process and the Resolution Professional filed Application u/s.12 of The Act on 10.12.2018 to this Bench.
5. The **Third Committee of Creditors** meeting held on 25.01.2019 resolved that the Resolution Professional Mr. Bhupendra Singh Rajput to publish Expression of Interest in Form G. Accordingly, the Learned Resolution Professional published Form G inviting Expression of Interest ("EoI") on 29.01.2019 in Two local newspapers. It is informed by the Learned Resolution Professional that no response was received to the "EoI".
6. It is further informed that a Resolution Applicant who has shown interest, had failed to submit confidential undertaking after repeated reminders, therefore, the acting Resolution Professional was unable to accept his "EoI".
7. The Applicant/ Resolution Professional submitted that in the **Fourth Committee of Creditors** meeting held on 11.03.2019 the Committee of Creditors was informed to publish the Form G once again, but the Committee of Creditors decided not to publish Form G again. Therefore, resolved as under:-

"RESOLVED THAT there is no response received after publication of EOI. So finally there is only one option left to go for the liquidation. Hence the application for the same is to be filed before Hon'ble NCLT, Mumbai and RP Mr. Bhupendra Singh Narayan Singh Rajput hereby authorized to sign, submit the documents for the same."

"4. Any other matters with the consent of the COC

- *The RP Bhupendra Singh Narayan Singh Rajput express his un willingness to continue to appoint the Liquidator due to many reasons like Company Registered office is not traceable , Directors not found and not to co operating to RP for the complete his duty in proper manner*

and also not giving the data, documents and relevant papers. The RP visited twice all the addresses as Registered office address of company, directors personal address but failed to contact anybody and all address were either closed or left. And further due to some health issue I am not able to travel frequently.

- *The member's of CoC consider the apparition of RP and the appointment of Liquidator left upon the Hon'ble NCLT Mumbai either replacement or continue the RP as Liquidator."*

8. It is informed that Information Memorandum was circulated to the Committee of Creditors and filed the progress report to this Bench on 12.02.2019.
9. According to the Learned Resolution Professional, till the time of completion of Corporate Insolvency Resolution Process, no expression of interest was received and no Resolution Plan was submitted. It is also informed that in the Fourth Committee of Creditors meeting held on 11.03.2019 it was discussed by the Resolution Professional with the Committee for extension of time for Corporate Insolvency Resolution Process. However, the Committee of Creditors held that there was no prospect of any Resolution Plan in future as well, therefore, decided to file Application u/s.33 for Liquidation of the Company.
10. The Learned Resolution Professional has also informed the Fourth Committee of Creditors that he is not willing to act as Liquidator and would not be giving his consent. The same was agreed and accepted by the Committee of Creditors and the Committee suggested the name of Mr. Reddy as a "Liquidator". However, full details of Mr. Reddy, the proposed Liquidator, have not been mentioned in the Miscellaneous Application. As a consequence, this Bench hereby directs the present Resolution Professional Mr. Bhupendra Singh Narayan Singh Rajput, Registration No. IBBI/IPA-001/IP-P00397/2017-18/10715, to act as 'Liquidator' in this case.
11. The Resolution Professional submitted that the Committee of Creditors was informed that the valuation cannot be conducted because the promoters have not cooperated and not disclosed the list of assets.
12. Considering above facts and circumstances, this Bench hereby Orders that :
 - a) The Process of Liquidation shall commence as per the Chapter III of the Code from date of this Order.

- b) Mr. Bhupendra Singh Narayan Singh Rajput, Registration No. IBBI/IPA-001/IP-P00397/2017-18/10715, is hereby appointed to act as 'Liquidator' in this case as per the Provisions of S. 34 of the Code.
- c) The Liquidator shall advertise in two Newspapers, one in English language and one in Vernacular Language i.e. Marathi, about the Liquidation of the Corporate Debtor as per the provisions of the Code.
- d) Copy of this Order shall be forwarded to the Concerned Authority with which the Corporate Debtor is Registered.
- e) The Liquidator is at liberty to seek any directions, if need be, from this Bench during the Liquidation Process.
- f) The Liquidator shall take necessary Legal Action to recover the Trade Receivables and other Credits such as Loans and Advances from the parties which are reflected in the latest Balance Sheet of the Corporate Debtor, if any. This direction is hereby given in conference of the jurisdiction prescribed U/s. 33 (5) of the Code.
- g) The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.

13. Ordered Accordingly. Application for U/s. 33 of Insolvency & Bankruptcy Code, 2016 is "**Allowed**".

Sd/-

CHANDRA BHAN SINGH

Member (Technical)

Date : 23.09.2019

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Sd/-

M.K. SHRAWAT

Member (Judicial)