IN THE NATIONAL COMPANY LAW TRIBUNAL,
NEW DELHI BENCH
COURT III

IA-1998/2022
In
CP (IB) – 2906/ND/2019
Filed under Section 33(1)
Of the IBC, 2016

In the matter of S.K.P.J. Investment & Finance Pvt. Ltd. (CD)

Atiuttam Prasad Singh
Resolution Professional

... Applicant

Order delivered on 17.05.2022

CORAM:
Shri Bachu Venkat Balaram Das
Hon'ble Member (Judicial)

Shri Narender Kumar Bhola
Hon'ble Member (Technical)

Parties / Counsels present
For Applicant : Ms. Lakshita Arora (Advocate)

ORDER

Per: NARENDER KUMAR BHOLA, MEMBER (T)

1. This relates to IA- 1998/2022 filed in CP (IB) – 2906/ND/2019 filed by Mr. Atituttam Prasad Singh (hereinafter referred to as 'Resolution Professional') under Section 33(1) read with 60(5) of the Insolvency and Bankruptcy Code, 2016. The prayer made in the

Application is to pass an order of liquidation pertaining to the Corporate Debtor (CD) viz., S.K.P.J. Investment & Finance Pvt. Ltd.

2. Originally the captioned petition was admitted by this Adjudicating Authority vide Order dated 25.10.2021, the Corporate Insolvency Resolution Process (CIRP) was initiated of the Corporate Debtor and the applicant was appointed as Interim Resolution Professional (IRP) vide the same order.

3. It is submitted that the IRP has performed his duties as per the IBC and applicable regulations and conducted 3 CoC meetings. It is stated that the applicant has received the claim from one financial creditor and CoC was constituted with sole FC of the Corporate Debtor. It is further stated that in 2nd CoC meeting dated 07.01.2022, the applicant was confirmed as Resolution Professional. As per regulations, the applicant published form-G on 21.01.2022 for invitation of Expression of Interest (EoI) and in pursuant to that, the applicant received 2 EoIs. It is averred that S.J. Services Pvt. Ltd. Fulfilled the eligibility and was included in the final list of resolution

applicant.

4. It is further submitted that the applicant provided RFRP and financials of corporate debtor to S.J. Services Pvt. Ltd. on 03.03.2022 but on 21.03.2022, the resolution professional received an email from S.J. Services Private Limited that it was not interested in submitting any resolution plan for the corporate debtor.

5. It is averred that in 3rd CoC meeting convened on 19.04.2022, the CoC considered the liquidation of Corporate Debtor on the ground that the Resolution Applicant did not submit the resolution plan within prescribed time limit, the relevant extract of the meeting is as follows:

> *RESOLVED THAT pursuant to the provisions of Section 33 and other applicable provisions of the Insolvency and Bankruptcy Code, 2016 and Rules and Regulations framed thereunder, Liquidation of S.K.P.J. INVESTMENT AND FINANCE PVT, LTD. (Under CIRP) be and is hereby approved and to be liquidated in the manner as laid down in Insolvency and Bankruptcy Code, 2016.*

RESOLVED FURTHER THAT pursuant to the provisions of Section 34 and other applicable provisions of the Insolvency and Bankruptcy Code, 2016 and Rules and Regulations framed there under and other applicable provisions of the Companies Act, 2013 and Rules framed thereunder, Mr. Atiuttam Prasad Singh (IBBI Regn No: IBBI/IPA-001/IP-P01914/2019-2020/12914), be and is hereby appointed as the Liquidator for the purposes of liquidation of Corporate Debtor.

RESOLVED FURTHER THAT pursuant to the provisions of Section 34 and other applicable provisions of the Insolvency and Bankruptcy Code, 2016 and Regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and other Rules and Regulations framed thereunder, the Liquidator so appointed shall be entitled to receive the consolidated remuneration of INR 50,000 plus GST as applicable and out of pocket expenses on actual basis incurred in connection with the performance of duties and this

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cost shall form part of the liquidation cost.

RESOLVED FURTHER THAT pursuant to the provisions of Section 31, 33 and 34 and other applicable provisions of the Insolvency and Bankruptcy Code, 2016 and Rules and Regulations framed thereunder and other applicable provisions of the Companies Act, 2013 and Rules framed thereunder, Atiuttam Prasad Singh (IBBI Regn. No: IBBI/IPA-001/IP-P01914/2019-2020/12914), Resolution Professional be and is hereby authorized to intimate the decision of Committee of Creditors for liquidation of S.K.P.J. INVESTMENT AND FINANCE PVT. LTD. (Corporate Debtor) to the Adjudicating Authority (Hon'ble National Company Law Tribunal, New Delhi Bench) and to do all such acts, deeds and things as may be required or considered necessary or incidental thereto.

RESOLVED FURTHER THAT the Resolution Professional be and is hereby authorised to exercise all the powers as per the provisions of the Insolvency and Bankruptcy Code 2016 to effectively Liquidate *the affairs of the Company and to do all such acts, deeds and things as may be required or considered necessary or incidental thereto, for the purpose of giving effect to the winding up of the Company.*

6. Since no resolution plan has been received by this Adjudicating Authority before the expiry of the maximum insolvency resolution process period and furthermore, the CoC has decided to liquidate the Corporate Debtor, therefore, the Corporate Debtor has to be ordered for Liquidation.

ORDER

7. In view of the facts and circumstances recorded by Applicant in IA- 1998/2022 filed in CP (IB) – 2906/ND/2019 and in exercise of powers conferred under Sub-Clauses (i) (ii) and (iii) of Clause (b) of Sub-Section (1) of Section 33 of the I&B Code, 2016, this Authority proceeds to pass Liquidation Order as follows: -

I. This Authority hereby orders for liquidation of the Corporate Debtor (CD) viz., M/s. S.K.P.J. Pvt. Ltd. which shall be conducted in the manner as laid down in Chapter III of part II of the Insolvency & Bankruptcy Code, 2016;

II. This Authority hereby appoints Mr. Atiuttam Prasad Singh (IBBI Regn. No: IBBI/IPA-001/IP-P01914/2019-2020/12914 (Applicant) as Liquidator who shall issue a public announcement stating therein that the Corporate Debtor is in liquidation;

III. Subject to Section 52 of the Insolvency & Bankruptcy Code, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.

IV. This Authority makes it clear that Para (III) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.

V. This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.

VI. All the 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 with the Liquidator viz., Mr. Atiuttam Prasad Singh, in addition to it, the Company Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the Insolvency & Bankruptcy Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

VII. The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.

VIII. The Liquidator shall be entitled to charge such fees for the conduct of the liquidation proceedings as resolved by the CoC in its 3rd meeting.

IX. The Registry is directed to communicate this order with immediate effect to the concerned Registrar of Companies (ROC) with which the Corporate Debtor is registered, OL, Registered Office of the Corporate Debtor and Liquidator viz. Mr. Atiuttam Prasad Singh, for information and compliance.

8. In terms of the above, IA-1998/2022 filed in CP (IB) – 2906/ND/2019 by the Applicants under Section 33(1) of the Insolvency & Bankruptcy Code, 2016, for initiation of the Liquidation Proceedings against the Corporate Debtor viz., M/s S.K.P.J. Investment & Finance Pvt. Ltd. is **Allowed**.

-Sd- -Sd-

(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)

(NARENDER KUMAR BHOLA)
MEMBER (TECHNICAL)