

20/1/18

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

**Coram : Shri Madan B. Gosavi,
Hon'ble Member (J)
&
Shri Virendra Kumar Gupta
Hon'ble Member (T)**

CP (IB) No.1096/KB/2018

In the matter of:

An application for initiation of Corporate Insolvency Resolution Process under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

-And-

In the matter of:

Religare Finvest Limited, a company incorporated under the Companies Act, 1956 having its registered office at 2nd floor, Rajlok Building, 24, Nehru Place, New Delhi, South Delhi-110019.

...Applicant/Financial Creditor

-Versus-

In the matter of:

Venkateshwara Capital Management Ltd., having its registered office at Marshall House, Room No. 303, 1 N.S Road, Kolkata, West Bengal-700001.

....Corporate Debtor

Sd

Sd

Counsel appeared:

For Resolution Professional

1. Mr. Shashi Agarwal, RP

For Corporate Debtor

1. Mr. Srenik Singhvi, Advocate
2. Ms. Payal Chakraborty Sen, Advocate

Date of Pronouncement of Order: 29th November, 2019.

ORDER

Per Shri Madan B. Gosavi

1. Religare Finvest Ltd. - the Financial Creditor filed this Petition under section 7 of the Insolvency & Bankruptcy Code, 2016 (in short, I&B Code) against **Venkateshwara Capital Management Limited** - Corporate Debtor to start Corporate Insolvency Resolution Process (in short, "CIRP") of the Corporate Debtor, as the Corporate Debtor allegedly committed default in paying the Financial debt of Rs. 22,97,82,021/- (Rupees Twenty-Two Crore Ninety Seven Lakh Eighty-Two Thousand and Twenty One Only) (together with interest).

2. This authority vide order dated 05.03.2019 admitted the corporate debtor in CIRP. Mr. Shashi Agarwal, having registration no. IBBI/IPA-001/IP-P00470/2017-2018/10813 was appointed as the IRP. IRP proceeded with the CIRP. On 08.03.2019, he made public announcement of CIRP of the corporate debtor publishing notice in "Financial Express" and "Aajkaal". He thereby called upon the creditors of the corporate debtor to submit their claims with the proof. In pursuant to the announcement, IRP received claim from one financial creditor i.e. applicant and no claim from any Operational Creditor had been received. IRP formed the Committee of Creditors consisting of one



Financial Creditor having 100% voting share. It is seen from the record that the Corporate Debtor went on shifting the registered office from one place to another place. IRP did not receive any balance sheet, financial status, information of the assets and liabilities of the Corporate Debtor. RP filed an application under Section 19 IBC for direction upon the Corporate Debtor for cooperating it for successful completion of the CIRP. That application was allowed. In spite of direction from this Authority, it appears that the IRP did not get required cooperation from the Corporate Debtor. Meantime CoC confirmed his appointment as the RP.

3. During 270 days period of CIRP, CoC held four meetings. It was found by the CoC that the directors and officers of the Corporate Debtor had committed some fraudulent/under-valued transaction about the assets of the Corporate Debtor. Hence, IRP had file application under Section 43,66,69of IBC, 2016 against them. At this stage, we are not expressing any opinion about this aspect. Be that as it may. Fact remain on record is that for want of requisite information about the assets and liabilities of the Corporate Debtor, the RP could not prepare information memorandum. Resultantly, the RP did not publish notice calling upon Expression of Interest/ resolution plans from perspective resolution applicants. It is seen from the record that from the above sequence, RP and CoC did not receive any resolution plan. CIRP period of 270 days completed today itself. We were told by the RP that last CoC meeting is being held today. We do not know whether CoC pass formal resolution recommending the Liquidation of the Corporate Debtor. We also found from the final report of the RP that CoC did not attend proposed meeting dated 23.09.2019. It appears to us that members of CoC was not interested to proceed with CIRP in an effective manner. Since, CIRP period of 270 days completing today, we do not have before us the resolution plan to resolve insolvency of the Corporate Debtor. Section 33(1) of IBC, 2016 provides that if Adjudicating Authority does not receive resolution plan under



Section 30(6) of IBC, 2016, it shall pass order requiring the Corporate Debtor to be liquidated. We invoke in our jurisdiction under Section 33(1) of IBC and pass the order of liquidation of the Corporate Debtor.

4. In this case, RP Mr. Shashi Agarwal showed his inability to work as the Liquidator. Hence, we replace him by some other insolvency professional as contemplated under Section 34(4) of the IBC, 2016. We pass the following order.

ORDER

1. By this order, Corporate Debtor- Ventateshwara Capital Management Ltd. is liquidated.
2. Smt. Sonu Jain having registration no. IBBI/IPA-001/IP-P00575/2017-2018/11016 is appointed as the Liquidator.
3. The Liquidator is directed to issue Public Announcement stating that the corporate debtor is in liquidation, in terms of Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016.
4. The Registry is directed to communicate this order to the Registrar of Companies, West Bengal and to the Insolvency and Bankruptcy Board of India (IBBI), New Delhi.
5. The Order of Moratorium passed under Section 14 of the I&B Code, 2016 shall cease to have effects and a fresh moratorium under Section 33 (5) shall commence.
6. This order is deemed to be a notice of discharge to the officers, employees and the workmen of the Corporate Debtor as per Section 33 (7) of I&B Code, 2016.

Sd

Sd

7. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of the Insolvency and Bankruptcy Code, 2016.

8. Upon proceeding with the liquidation the Liquidator shall file a **preliminary report** as per regulation 5 read with Reg.13 of the IBBI (Liquidation) Regulations, 2016 at the registry within 75 days from the liquidation commencement date and continue to file **progress reports** as per Reg.15(1) within 15 days after the end of the quarter in which he is appointed.


9. The fee payable to the Liquidator shall form part of the liquidation cost as provided under Reg. 4(1) of the IBBI (Liquidation Process) Regulations, 2016.

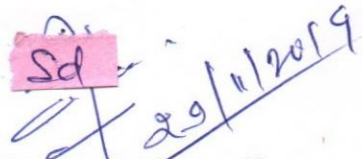
10. Registry is hereby directed to communicate the order to the RP, Financial Creditor, Corporate Debtor and the Liquidator by Speed Post and also by email for information and for taking necessary steps.

11. CA(IB) No.1096/KB/2019 pending against directors of the Corporate Debtor to come up for further consideration on 07.01.2020.

12. CP(IB)No.1096/KB/2018 is disposed of as the Corporate Debtor (Venkateshwara Capital Management Ltd.) is liquidated.

Let the certified copy of the order be issued upon compliance with requisite formalities.


(Virendra Kumar Gupta
Member(T)


(Madan B. Gosavi)
Member (J)

Signed on this, the 29th November, 2019.