

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD**

SPECIAL BENCH - COURT 1 (VEDIO CONFERENCE)

PRESENT: HON'BLE SHRI BHASKARA PANTULA MOHAN – MEMBER JUDICIAL

HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI - MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 26.04.2021 AT 10:30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No. 674 & 728/2020 in CP (IB) No. 665/7/HDB/2018
NAME OF THE COMPANY	Meena Jewellers and Diamonds Pvt Ltd
NAME OF THE PETITIONER(S)	State Bank of India
NAME OF THE RESPONDENT(S)	Meena Jewellers and Diamonds Pvt Ltd
UNDER SECTION	7 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature


Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

Orders passed vide separate orders in IA NO.674&728/2020.


Member(Technical)


Member(Judicial)

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**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

**IA No.728/2020 in
CP(IB) No.665/7/HDB/2018
Under Section 60(5) of I&B Code 2016**

Between:

Mr. Uday Pilani
1D, Sai Raja Residency
Plot No.128, Jubilee Gardens
Kondapur, Hyderabad – 500 032

... Applicant

And

Meena Jewellers Diamond Private Limited
Through its Resolution Professional
Mr. K. Venkata Srinivas
H.No.3-4-756/1, Flat No.402, 4th Floor
Sai Raghavendra Residency
Barkatpura
Hyderabad – 500 027

...Respondent / Corporate Debtor

In the matter of:

State Bank of India

... Financial Creditor

Vs.

Meena Jewellers Diamond Private Limited

... Corporate Debtor

Date of Order: 26.04.2021

Coram:

Hon'ble Shri Bhaskara Pantula Mohan, Member (Judicial)
Hon'ble Sri Veera Brahma Rao Arekapudi, Member (Technical)

Parties / Counsels present:

For the Applicant: Mr. DVAS Ravi Prasad, Advocate

Per: Shri Veera Bramha Rao Arekapudi

Heard on: 22.03.2021



ORDER

1. The instant Application is filed on behalf of the Applicant / Mr. Uday Pilani under Section 60(5) of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "**I&B Code**") praying the Tribunal to pass an Order to Direct the Resolution Professional to consider the profile of the Applicant and allow the applicant to submit the Resolution Plan.
2. The averments made in the Interlocutory Application filed by Mr. Uday Pilani / the Applicant herein are briefly described hereunder:
 - i. The Petition for initiation of Corporate Insolvency Resolution Process (CIRP) filed by **State Bank of India / Financial Creditor** against **M/s. Meena Jewellers Diamond Private Limited / Corporate Debtor** under Section 7 of the I&B Code was admitted by this Tribunal on 26.11.2019 in CP(IB) No.665/07/HDB/2018 wherein Mr. K. Venkata Srinivas was appointed as Interim Resolution Professional ("IRP"), who was later confirmed as Resolution Professional ("RP").
 - ii. It is averred that in pursuance to the above Order, RP has given Public Announcement about CIRP of the Corporate Debtor. RP invited Expression of Interest and submission of Resolution Plans from the prospective bidders vide notification dated 15.02.2020 as the last date for submission of Expression of Interest was 01.03.2020.
 - iii. It is averred that the Notification issued by the Resolution Professional has not come to the notice of the Applicant in view of the Covid-19 Pandemic situation prevailing in the country resulting in lockdown and deadlock of all activities. It is also averred that the Applicant was in a containment zone without access to outside world. As a result, the Applicant could not respond to the Expression of Interest on time. The Government of Telangana has declared lockdown with effect from March 22, 2020 for curtailing the spread of Covid-19 which has been extended from time to time till July 31, 2020 for containment zones.

- iv. It is averred that the Applicant is in the business of luxury hotels and property development in India and United Kingdom. The Applicant is having 20 years of experience in acquisition / turnaround of stressed assets and having overall management strength of more than 20 persons and having turnover of his group companies around Rs.300 crores and other activities and interest in the business of jewellery and sincerely interested in the Resolution of the Corporate Debtor / Company and immediately knowing about the CIRP of the Corporate Debtor, he submitted his profile to the Respondent herein.
 - v. It is averred that the Applicant has sent a mail dated 05.08.2020 at 3:13 p.m. and the Respondent / Resolution Professional sent a return mail dated 05.08.2020 at 3:17 p.m. rejecting the EOI without assigning any reason for rejection, which is totally against the spirit of I&B Code and amounts to the failure of the duties of the Respondent as per the I&B Code.
 - vi. It is also averred that the Applicant came to know that the Respondent also filed the Liquidation application before this Hon'ble Tribunal and also averred that liquidation should be the last resort for the Corporate Debtor and all the avenues for CIRP have to be exhausted before filing any application for liquidation.
3. We have heard the Counsel for Applicant. We have gone through the records submitted before us. The Counsel for Applicant would contend that the Company Petition CP(IB) No.665/07/HDB/2018 filed by State Bank of India/Financial Creditor against Meena Jewellers Diamond Private Limited/Corporate Debtor under Section 7 of the Insolvency & Bankruptcy Code, 2016 was admitted by this Tribunal on 26.11.2019 and invoked the CIRP process.
 4. The Counsel for Applicant would contend that the Applicant filed an IA No. 728/2020 before this Adjudicating Authority to pass an order directing the Resolution Professional to consider the profile of the Applicant and allow the Applicant to submit the Resolution Plan.





5. There is an IA pending before the Adjudicating Authority, which was filed by the Resolution Professional recommending for liquidation of the Corporate Debtor and the IA is under consideration at this juncture. We do not want to reopen the case and the Applicant in the present IA has not even submitted except his bio-data and no worthwhile Resolution Plan has been submitted before the Committee of Creditors (COC) and the COC has not considered even his request. As such, we are not inclined to consider the present IA filed by the Applicant for considering their request for submission of the Resolution Plan in this regard.
6. The Resolution Professional has already filed an application which is pending before the Adjudicating Authority for admitting the Corporate Debtor into liquidation. As such, we are not inclined to reopen the issue at this stage and we are also of the firm view that if the Applicant who has filed this application is really serious to submit the resolution plan, he may file his Resolution Plan during the time of Liquidation also. It also appears to us it is only a delaying tactics adopted by the Applicants may be with the active connivance of the promoter to delay the process.
7. We, therefore, are of the considered view that the applicant has not filed any worthwhile reason to interfere in the matter at this stage. Accordingly, we dismiss the present IA filed by the applicant.
8. In the light of the above, **IA No. 728/2020 in CP(IB) 665/7/HDB/2018** is dismissed.

VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)

BHASKARA PANTULA MOHAN
MEMBER (JUDICIAL)

**NATIONAL COMPANY LAW TRIBUNAL
BENCH-1, HYDERABAD**

IA No. 674 of 2020
In
CP (IB) No. 665/7/HDB/2018

Application under Section 33 (1)(a) of IBC, 2016

In the matter of **M/s Meena Jewellers and Diamonds Private Limited**

Filed by

Dr K.V. Srinivas
Resolution Professional
M/s Meena Jewellers and Diamonds Private Limited

...Applicant/
Resolution Professional

Coram

Date of order: 26.04.2021

Hon'ble Shri Bhaskara Pantula Mohan, Member (Judicial)
Hon'ble Shri Veera Brahma Rao Arekapudi, Member (Technical)

Appearance

For Applicant: Dr. K.V. Srinivas, Party in person

Heard on: 22.03.2021

PER: SHRI VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)

1. This is an Application by the Resolution Professional under Section 33 (1)(a) of the Insolvency and Bankruptcy Code, 2016 (herein after referred to as CODE) seeking orders for liquidation of **M/s Meena Jewellers and Diamonds Private Limited/ Corporate Debtor.**
2. This Tribunal vide order dated 26.11.2019 admitted the petition bearing CP (IB) No. 665/7/HDB/2018 under Section 7 of the Code initiating Corporate Insolvency Resolution Process (CIRP) of the Company. Dr. K.V. Srinivas the Applicant herein is appointed as Resolution Professional. The CIRP ended on 06.08.2020 after exclusion of 74 days lockdown period due to covid induced lockdown.

3. The Applicant has submitted that there was no co-operation from the Ex-Management/ Directors (suspended Board) and that the Ex-Management has dishonoured their three undertakings dated 06.12.2019, 28.12.2019 and 02.01.2020 and refused to hand over the control and possession of all the assets and Books of Account of the Corporate Debtor.
4. The CoC in its 6th Meeting held on 05.08.2020 voted in favour of liquidation of the Company by a vote of 100% as no viable resolution plan is received by the CoC for consideration and as such resolved to seek liquidation of the Corporate debtor and to appoint Shri Vamsi Kambhamettu as Liquidator of the Corporate Debtor as the Resolution Professional has expressed his unwillingness to continue as Liquidator.
5. We have heard the Applicant in the matter. The Hon'ble Apex Court in K. Sashidhar vs. Indian Overseas Bank and Ors (2019) 148 LA 497 (SC) inter-alia held that,
"The Adjudicating Authority (NCLT) is not expected to do anything more; but is obligated to initiate liquidation process under Section 33 (1) of I&B Code. The legislature has not endowed the adjudicating authority (NCLT) with the jurisdiction or authority to analyse or evaluate the commercial decision of the CoC much less to enquire into the justness of the rejection of the resolution plan by the dissenting financial creditors".
6. From the above, it would appear that despite all possible steps as required under the Code taken during the CIRP, the CoC did not receive any viable resolution plan/proposal for revival of the Company. The CoC in its wisdom has resolved with 100% voting share in favour of the liquidation of the Company. This Authority has no reason before it to take a contrary view in terms of Section 33 (1) (a) of the Code. Therefore, we have no option than to pass an order for liquidation of the Company in the manner laid down in Chapter-III of the Code.



ORDER

7. The Application is accordingly allowed with the following directions:-
- (a) The Corporate Debtor i.e M/s Meena Jewellers and Diamonds Private Limited shall be liquidated in the manner laid down in Chapter-III of the Code.
 - (b) Mr. Vamsi Kambhamettu having IBBI Registration No. IBBI/IPA-001/IP-P00664/2017-18/11141 is appointed as Liquidator for conducting liquidation of the Corporate Debtor.
 - (c) He shall issue public announcement stating that the Corporate Debtor is in liquidation.
 - (d) The Moratorium declared under Section 14 of the code shall cease to operate here from.
 - (e) Subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
 - (f) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
 - (g) The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code, read with Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
 - (h) Personnel connected with the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as would be required for managing its affairs.
 - (i) The Liquidator shall be entitled to such fees as may be specified by the Board in terms of Section 34 (8) of the Code.
 - (j) 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.

- (k) Copy of the order shall be furnished to IBBI, to the Regional Director, Ministry of Corporate Affairs, Registrar of Companies & Official Liquidator, Hyderabad, the Registered Office of the Corporate Debtor and the Liquidator.



(VEERA BRAHMA RAO AREKAPUDI)
MEMBER (TECHNICAL)



(BHASKARA PANTULA MOHAN)
MEMBER (JUDICIAL)

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