

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI
COURT – I

C.P. (IB) 346/(MB)/2019
MA 672/2020

CORAM: SHRI BHASKARA PANTULA MOHAN
MEMBER (J)
SHRI V. NALLASENAPATHI
MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 12.03.2020

NAME OF THE PARTIES: Color Cartons
V/s
Fizzy Foodlabs Pvt Ltd

Section 9 of the Insolvency and Bankruptcy Code, 2016.

ORDER

36. MA 672/2020 In C.P. (IB) 346/(MB)/2019

This is an application filed by the Resolution Professional under section 33 of the Code seeking liquidation of the corporate debtor based on the Resolution of the CoC approving the liquidation of the corporate debtor with 81.39% of voting share.

The applicant RP submits that : - CIRP petition was admitted against Corporate debtor on 18.09.2019; public announcement inviting claims from the creditors was made on 24.09.2019; took custody and control of the assets of the corporate debtor; constituted the CoC; due to non- availability of funds, even though two valuers were appointed the valuation report was not given by the valuers; the CoC was reconstituted; the CoC has not given the approval for publication form “G” as the company’s future plan is not viable; the CoC in the next meeting on 09.12.2019 decided to liquidate the company with 81.39% of voting share.

Section 33 (2) of the code provides that where the Resolution Professional, at any time during the CIRP but before confirmation of the resolution plan, intimates the adjudicating authority of the decision of the CoC (approved by not less than 66% of the voting share) to liquidate the corporate debtor, adjudicating authority shall pass the liquidation order.

In view of the above provision and since there is no resolution plan, this application is allowed and this Bench orders:

- a. that the Corporate Debtor be liquidated in the manner as laid down in the Chapter III of the Code by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.
- b. that Mr. Suresh Chandra Jena, Resolution Professional herein is appointed as Liquidator as provided under Section 34(1) of the Code.
- c. that all the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.
- d. that the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- e. that the Liquidator will charge fees for conduct of the liquidation proceedings as per sub Regulation 3 of Regulation 4 of IBBI (Liquidation process) Regulation, 2016.
- f. that on having liquidation process initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the corporate debtor with prior approval of this Adjudicating Authority.
- g. that this liquidation order shall be deemed to be notice of discharge to the officers, employees and workmen of the Corporate Debtor

except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.

Sd/-

V. NALLASENAPATHI
Member (Technical)

Sd/-

BHASKARA PANTULA MOHAN
Member (Judicial)