

IN THE NATIONAL COMPANY LAW TRIBUNAL,
KOLKATA BENCH, KOLKATA

CP (IB) No.909/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:

Axis Bank Limited, having its registered office at Trishul, 3rd Floor, Opp. Samartheswar Temple, Law Garden, Ellis Bridge, Ahmedabad- 380006, Gujrat, India and branch at SME Department Eastern Zonal Office, 1 Shakespeare Sarani, 3rd Floor, AC Market Building, Kolkata 700071, West Bengal

... Applicant/Financial Creditor

And

In the Matter of:

M/s Maximum Agency Private Limited, having its registered office at 127/A, Sarat Bose Road, Kolkata-700026 and also at 22B, Manoharpurkur Road, 1st Floor, Kolkata-700029, West Bengal.

... Respondent/Corporate Debtor

Date of Hearing: 27th January, 2020

Order Delivered on: 31st January, 2020

Coram:

Jinan K.R., Hon'ble Member (Judicial)
Harish Chander Suri, Hon'ble Member (Technical)

For the RP : 1. Mr. Pranay Agarwal, Advocate
2. Mr. Ankita Baid, Advocate,
3. Mr. Hrisikesh Dasgupta, Advocate

ORDER

Jinan K.R., Hon'ble Member (Judicial)

1. Axis Bank Limited / Financial Creditor filed this application under Sec.7

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of the Insolvency and Bankruptcy Code, 2016 (in short IB Code) read with Rule 4 of the Insolvency and Bankruptcy Code (Application to Adjudicating Authority) Rules, 2016 for initiation of corporate insolvency resolution process as against the Corporate Debtor/ Maximum Agency Private Limited. Vide order dated 02/08/2019, the application was admitted by appointing Mr. Hrisikesh Dasgupta, as Interim Resolution Professional to initiate corporate insolvency resolution process as against the Corporate Debtor in accordance with the provisions of the Code.

2. Thereafter, the Interim Resolution Professional was appointed as Resolution Professional by the Committee of Creditors and in turn approved by the Adjudicating Authority. The Resolution Professional has convened six meetings of Committee of Creditors. However, he failed to obtain any resolution plan resolving the assets of the Corporate Debtor. During the course of the CIRP process, the Resolution Professional has taken steps to get back possession of the land and building of the Corporate Debtor taken over by Kolkata Municipal Corporation (KMC) and despite the order of the Adjudicating Authority to hand over the possession of the property to the Resolution Professional for resolving the assets of the corporate debtor, the KMC did not hand over the possession of the property and it is one among the factors in not getting any resolution applicants for resolving the assets of the corporate debtor.

3. It is submitted by the Ld. RP that the Kolkata Municipal Corporation has challenged the order of this Adjudicating Authority before the Hon'ble High Court, at Calcutta and it is pending before the Hon'ble High Court at Calcutta.

4. The learned Resolution Professional further submits that despite invitation for EOI and submission of resolution plan, he was not in receipt of any EOI or any resolution plan and in the meanwhile 180 days expired on 27th January,

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2020 and his proposal for extending the period of CIRP beyond 180 days has not been passed by the Committee of Creditors and Committee of Creditors rejected his request for extension of CIRP period and thus there is no other alternative but to file final report, praying for passing an order in terms of section 33(1) (a) of the IB Code, 2016.

5. The Resolution Professional also gave written consent showing his willingness to continue as the liquidator. Accordingly, the RP can be appointed as the Liquidator.

6. Upon hearing the learned Resolution Professional and perusal of the records and the report filed by the liquidator, we are satisfied that for want of resolution plan, this Adjudicating Authority has no other alternative than to pass the order requiring the Corporate Debtor to be liquidated in the manner as laid down in chapter 3 read with section 33 of the Code. Accordingly, an order of liquidation of the Corporate Debtor is passed upon the following orders.

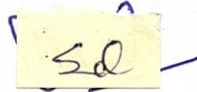
ORDERS

- i. In view of the facts that the Corporate Debtor has been ordered to be liquidated. Mr. Hrisikesh Dasgupta an Insolvency Professional who is holding IBBI registration No. IBBI/IPA-003/IP-N00082/2017-2018/10705 is appointed as the Liquidator and act in accordance with Rule 12 of Liquidation Process Regulation, 2016 and submit the preliminary Report as per Regulation 13 of the said Code.
- ii. The Registry is directed to communicate this order to the Registrar of Companies, West Bengal and to the Insolvency and Bankruptcy Board of India.

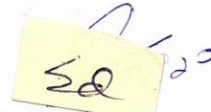
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- iii. The order of Moratorium passed under section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence.
- iv. This order shall be deemed to be a notice of discharge of the Officers, employees and the workmen of the Corporate Debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016.
- v. A copy of this order be sent to the Financial Creditor, Corporate Debtor and the Liquidator for taking necessary steps.
- vi. CP (IB) No.909/KB/2018 is disposed of as above.



Harish Chander Suri
Hon'ble Member (T)



(Jinan K.R.)
Hon'ble Member (J)

Signed on 31st January, 2020

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