IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

KOLKATA

IA (IB) No. 666/KB/2020

in

CP (IB) No. 616/KB/2018

Under section 33 of Insolvency & Bankruptcy Code, 2016

In the matter of

The Press Trust of India Limited

… Operational Creditor

Versus

Axiom Estates Advisory Services Private Limited

… Corporate Debtor

Shashi Agarwal Resolution Professional of Axiom Estates Advisory Services Private Limited

… Applicant

Coram:

Shri Rajasekhar V.K., Member (Judicial)

Shri Harish Chander Suri, Member (Technical)

Appearances (through video conferencing):

For Press Trust of India Limited

Mr. Anirban Ray, Advocate

Mr. Swarajit Dey, Advocate

Mr. Subhodip Basak, Advocate

Order reserved on: 09.12.2020

Order pronounced on: 28.01.2021

ORDER

Per Rajasekhar V.K., Member (Judicial)

1. This court convened *via* video conferencing.
2. This is an application filed by the Resolution Professional upon the instructions of the Committee of Creditors (CoC) seeking liquidation of the Corporate Debtor, *viz.,* Axiom Estates Advisory Services Private Limited [CIN: U45400WB2007PTC116181], on the ground that the Corporate Debtor is not a going concern.
3. This Adjudicating Authority *vide* its order dated 01.10.2019 on a Petition filed by the Press Trust of India Limited *(operational creditor)* under section 9 of the Insolvency and Bankruptcy Code, 2016 *('the Code')* directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor and appointed the Applicant herein as the Interim Resolution Professional (IRP).
4. The Applicant submits that in terms of section 15 of the Code, public announcement was made on 12.10.2019, in *Financial Express* (English) and *Aajkal* (Bengali) of Kolkata Edition of the said newspapers, fixing 25.10.2019 as the last date for submitting the claim.
5. The Committee of Creditors (CoC) was duly constituted with two Operational Creditors, and the Report certifying the constitution of the CoC was filed with the Adjudicating Authority. The CoC was reconstituted with three Operational Creditors.
6. The first meeting of the CoC was held on 13.11.2019, wherein the appointment letter was not issued to the Interim Resolution Professional to act as the Resolution Professional. In the second CoC meeting, dated 04.12.2019, the CoC passed the resolution and appointed the Interim Resolution Professional as the Resolutional Professional and directed him to proceed with CIRP, as per rules.

7. Thereafter, in the fourth meeting of the CoC meeting held on 27.01.2020, the CoC resolved that the Corporate Debtor is not a going concern and publication of Form G is not viable and it was resolved to liquidate the Corporate Debtor.
8. In the 5th COC meeting dated 17.03.2020 , CoC passed a resolution for liquidation of Corporate Debtor. It was further resolved that any Insolvency Professional may be appointed as the Liquidator of the Corporate Debtor as the Adjudicating Authority deems fit.
9. We have considered the submission made by the Applicant/RP in person and perused the record.
10. Section 33(2) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Debtor 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 sixty-six percent of the voting share, to liquidate the Corporate Debtor. In the present case, the CoC has resolved by 97.47% voting share to liquidate the Corporate Debtor.
11. This Bench, therefore, hereby orders as follows: -
    a. IA No. 666/KB/2020 filed by Mr Shashi Agarwal, RP of Axiom Estates Advisory Services Private Limited, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;
    b. **Mr. Niraj Kumar Agarwal [Reg. No. IBBI/IPA-001/IP-N00949/2017-18/11569],** is hereby appointed as Liquidator is hereby appointed as Liquidator as provided under section 34(1) of the Code, subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019.
    c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, *i.e., Financial Express* (English) and *Aajkal* (Bengali) of Kolkata Edition, stating that the Corporate Debtor is in liquidation.

e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.

f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

g. The Resolution Professional shall be discharged from his responsibilities, subject to all procedural compliances, like handing over all the documents with respect to the Corporate Debtor in his possession to the Liquidator, under due acknowledgement.

h. On initiation of the liquidation process but 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, as provided in section 33(5) of the Code read with its proviso.

i. In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a 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.

j. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, Kolkata, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.

12. The application bearing **IA (IB) No. 666/KB/2020** shall stand disposed of in accordance with the above directions.

13. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
14. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
15. List the main **CP (IB) No. 616/KB/2018** for reporting progress on **___.04.2021**.

[Harish Chander Suri]
Member [T]

[Rajasekhar V.K.]
Member [J]

28th day of January, 2021.

GGRB[LRA]