

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, KOLKATA

IA No. 1370/KB/2020

in

CP (IB) No.1365/KB/2019

Under section 33 of Insolvency & Bankruptcy Code, 2016

In the matter of

Vasu Publicity Private Limited ... Operational Creditor

Versus

Indian Gem & Jewellery Private Limited... Corporate Debtor

And

RP of Gem & Jewellery Private Limited ... Applicant

Order reserved on: 6th January, 2021

Order pronounced on 22nd January, 2021

Coram:

Shri Rajasekhar V.K. : Member (Judicial)

Shri Harish Chander Suri : Member (Technical)

Appearances (through video conferencing) :

For the Applicant : Mr. Vikash Singh, Advocate

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., Indian Gem & Jewellery Private Limited* [CIN: U27205WB2006PTC111892], on the ground that no Expression of Interest (EoI) has been received from any prospective resolution application.
3. This Adjudicating Authority *vide* its order dated 13.11.2019 on a Petition filed by Vasu Publicity (*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 16.11.2019, in *Business Standard* (English) and *Aajkal* (Bengali) Edition and *the Business Standard* (English) and *Aajkal* (Bengali) of Kolkata Edition of the said newspapers, fixing 27.11.2019 as the last date for submitting the claim.
5. The Committee of Creditors (CoC) was duly constituted on 05.12.2020 with two Financial Creditors, and the Report certifying the constitution of the CoC was filed with the Adjudicating Authority.

6. The first meeting of the CoC was held on 11.12.2019, wherein *inter alia* it was decided to defer the matter of appointment of RP in place of the IRP.
7. Thereafter, in the second meeting of the CoC meeting held on 23.12.2019, the Applicant herein was confirmed as the RP of the Corporate Debtor. In the same meeting, the matter of inviting Expressions of Interest (EoI) was deferred. Information Memorandum was circulated to the members of the CoC and of the suspended Board of Directors on 23.03.2020. Thereafter, on 25.03.2020, lockdown was implemented by the Central and State Governments owing to the Covid-19 pandemic.
8. At the third meeting of the CoC held on 14.01.2020 through videoconferencing, the matter of inviting EoIs was again placed for consideration, but the CoC deferred the agenda item, preferring instead to discuss the liquidation of the Corporate Debtor. No decision was taken in this regard at the fourth and fifth meetings of the CoC held on 30.07.2020 and 04.09.2020 too.
9. At its sixth meeting held on 23.09.2020, the CoC noted that the Corporate Debtor is engaged in trading business and that its operation is also stopped for more than a year. There was no possibility of getting any resolution of the Corporate Debtor due to the fact that it was not in operation for more than a year; it had no major assets, and also the impact of Covid-19 pandemic on the steel industry etc. Therefore, no expressions of interest were invited. It was also resolved that the Corporate Debtor should be liquidated. The proposal was approved with 100% voting in favour. The minutes

of the said meeting and the voting results have been placed on record at **Annexure 'B'** to the IA.

10. The Applicant/Resolution Professional, Mr. Sanjit Kumar Nayak [Reg. No.-IBBI/IPA-033/IP-N00079/2017-2018/10702], has agreed to act as liquidator to carry on the process of liquidation and given his consent dated 21.10.2020 to act as Liquidator, in the prescribed Form AA, in terms of section 34(1) of the Code.
11. We have considered the submission made by the Applicant/RP in person and perused the record.
12. 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 100% voting share to liquidate the Corporate Debtor.
13. This Bench, therefore, hereby orders as follows: -
 - a. IA No.1170/KB/2020 filed by Mr. Sanjit Kumar Nayak , RP of Indian Gem & Jewellery Imperial 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.Sanjit Kumar Nayak [Reg.No.IBBI/IPA-003/IP-N00079/2017-18/10702], the Applicant/RP herein, 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.*, *Business Standard* (English) and *Aajkal* (Bengali) of Edition and (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. 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.
- h. 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.

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- i. 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 been registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.
14. I.A.No. 1370/KB/2020 shall stand disposed of accordingly.
- 15. CP (IB) No.1365/KB/2019** to come up for filing of periodical report on 22/04/2021.
16. The Registry is directed to send e-mail copies of the order forthwith to all the parties inclusive of the Counsel.
17. Urgent certified copies of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

Harish Chander Suri
Member (Technical)

Rajasekhar V.K.
Member (Judicial)

Order signed on 22/01/2021

BD/pj