THE NATIONAL COMPANY LAW TRIBUNAL
COURT-IV
AT NEW DELHI
I.A. 5319/ND/2021
IN
Company Petition No. (IB) – 3507(ND)/2019

In the matter of:
M/s Jones Lang Lassalle Building Operations Private Limited

...Applicant/Operational Creditor

Versus

M/s Sare Facility (Gurgaon) Services Private Limited

....Respondent/ Corporate Debtor

AND

In the matter of:
Bikram Singh Gusain
IRP of Sare Facility (Gurgaon) Services Private Limited
UGF, 1/15, Tilak Nagar
New Delhi-110018.

... Applicant/Resolution Professional

*Under Section **33(2)** of the Insolvency and Bankruptcy Code, 2016 for liquidation of the corporate debtor*

Order delivered on: 17.03.2022

CORAM:

Mr. DHARMINDER SINGH, HON'BLE MEMBER (JUDICIAL)

MS. SUMITA PURKAYASTHA, HON'BLE MEMBER (TECHNICAL)

ORDER

Per SMT. SUMITA PURKAYASTHA, MEMBER-TECHNICAL

1. This is an application filed by the Interim Resolution Professional under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016

(hereinafter referred as the "Code") for issuance of directions for liquidation of the Corporate Debtor, Sare Facility (Gurgaon) Services Private Limited.

2. The facts in brief are that the operational creditor had filed an application under Section 9 of the Code for initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor. The said application was admitted by this Tribunal on 17.05.2021 initiating CIRP against the corporate debtor and the applicant was appointed as the Interim Resolution Professional (IRP). The IRP made the Public Announcement in 'Form A' in respect of initiation of CIRP on 21.05.2021.

3. It has been pointed out that all the three Directors of Corporate Debtor has already resigned. After collection of claims the CoC was constituted on 11.06.2021 consisting operational creditors and employees; as there is no Financial Creditor in the company. First meeting of CoC was held on 17.06.2021. The CoC in its 8th meeting held on 09.11.2021 decided to liquidate the Corporate Debtor with 90.83% voting shares.

4. It is submitted that since CIRP is a time bound process, the corporate debtor has no business, no employees and no tangible assets, except security and financial assets, in support of which no financial records are available with applicant, the CoC has decided to liquidate the Corporate Debtor with 90.83% voting shares.

5. In view of the submission made by the parties, the liquidation has to follow as recommended by the Committee of Creditors in terms of

provisions of Section 33 (2) of the Code. Adherence to statutory requirement has to be in toto. When the language of the Code is clear and explicit the Adjudicating Authority must give effect to it whatever may be the consequences and in present case the consequence is liquidation of Corporate Debtor. The CoC also approved appointment of applicant as liquidator of the corporate debtor. The applicant has filed its written consent alongwith the application.

6. In the factual background, the payer for liquidation of the corporate debtor under Section 33 of the Code is hereby accepted.

7. Resultantly, the present application IA No. 5319/2021 stands allowed and hereby it is ordered that liquidation of the corporate debtor, namely M/s. Sare Facility (Gurgaon) Services Private Limited shall be commenced in the manner laid down in the Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 along with following directions:

   a. Mr. Bikram Singh Gusain, having registration number IBBI/IPA-002/IP-N00011/2016-17/10015, is appointed as Liquidator in terms of Section 34(1) of the Code.

   b. Mr. Bikram Singh Gusain, is directed to issue Public Announcement stating that the corporate debtor is in liquidation, in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (Regulations);

c. The Registry is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;

d. The Order of Moratorium passed under Section 14 of the Code shall cease to have its effect and that a fresh Moratorium under Section 33(5) of the Code shall commence;

e. The Liquidator is directed to proceed with the process of liquidation in the manner laid down in Chapter III of Part II of the Code and in accordance with the relevant regulations.

f. The liquidator shall follow up and investigate the financial affairs of the corporate debtor in accordance with provisions of Section 35 (l) of the Code.

g. The liquidator shall also follow up the pending application, if any, for its disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.

h. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Regulations.

Resultantly the present application stands allowed

i. Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator for taking necessary steps.

-Sd-

(SUMITA PURKAYASTHA)

MEMBER (T)

-Sd-

(DHARMINDER SINGH)

MEMBER (J)