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**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – I, CHENNAI**

IA/(IBC)/80/CHE/2023 in IBA/870/2020

*(Filed under Section 33(1)(a) of the Insolvency and Bankruptcy Code,
2016 read with Rule 11 of the NCLT Rules, 2016)*

In the matter of **Ganga Foundations Private Limited**

J.Karthiga, Insolvency Professional

Resolution Professional of

Ganga Foundations Private Limited,

Having address at Sri Nivas New No.1/Old No.1052,

41st Street, Korattur, Chennai – 600 080

... Applicant /Resolution Professional

Order Pronounced on 15th March 2023

CORAM:

**JUSTICE RAMALINGAM SUDHAKAR, Hon'ble PRESIDENT
SAMEER KAKAR, MEMBER (TECHNICAL)**

For Applicant : *Ravi Rajagopalan, Advocate*

ORDER

Per: SAMEER KAKAR, MEMBER (TECHNICAL)

This is an application filed under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules, 2016 seeking relief as follows:

- (i) To allow the present application
- (ii) The delay in filing the present Application for liquidation under Section 33(1) (a) being 41 days from 07.12.2022 till date of filing the present Application be condoned;
- (iii) The Liquidation of the Corporate Debtor be ordered in terms of Section 33(1) read with sub sections (5) and



(7) thereunder along with directions to the Liquidator to explore the revival/ disposal of the CD and or its business or assets under Regulation 2B or under Regulation 32 and 32A of the IBBI Liquidation Process Regulations 2016 as applicable.

2. From the averments made by the Applicant, it is evident that the CIRP of the Corporate Debtor was initiated on 10.01.2022 and one Ms.Kavitha Surana was appointed as IRP. Thereafter the Applicant herein Ms.J.Karthiga was appointed as RP vide order dated 28.10.2022 in IA/1072/2022.
3. The dates and events in relation to the CIRP of the Corporate Debtor is as under;

S.No	PARTICULARS	DATE
1	Date of initiation of CIRP	10.01.2022
2	Date of Appointment of IRP – Ms.Kavitha Surana	10.01.2022
3	Date of Publication of Public Announcement	14.01.2022
4	Date of constitution of CoC	02.02.2022
5	Date of First meeting of CoC	09.02.2022
6	Date of Appointment of RP Ms. Kavitha Surana	09.02.2022
7	Date of Appointment of Registered Valuers	25.02.2022
8	Date of issue of Invitation for EoI (1 to 3)	14.04.2022 14.05.2022 21.07.2022
9	180 th day of CIRP	10.07.2022
10	270 th day of CIRP – approved in IA/646/2022 order dated 21.07.2022	08.10.2022



11	New RP Ms.Karthiga appointed in 9 th CoC Meeting confirmed in IA/1072/2022	28.10.2022
12	CIRP extended till 330 th day vide orders in IA/1130/2022 dated 15.11.2022	07.12.2022 (330 th day)
13	Orders in IA/1518/2022 by the Hon'ble Tribunal rejecting application for exclusion of time and consequent extension of the 330 days	02.01.2023
14	Date of filing of the present application seeking Liquidation	17.01.2023
15	Total Number of Meetings of CoC held till date	12

4. It is averred in para 3 of the application that this Tribunal had rejected the application filed by this applicant seeking to extend the CIRP timelines which has already expired vide order dated 02.01.2022 in IA/1518/2022 and the same is enclosed at Annexure –A of the Application typeset.
5. Further to the directions therein and the expiry of the 30 days period on 07.12.2022 the present application is being filed under section 33 (1) (a) of the code as the CoC has become *functus officio*.
6. It is further averred in para 5 (a) of the application that the Members of the CoC having a combined vote share of **81.15%** have communicated to the applicant indicating their consent and approval of the Applicant to



be appointed as the Liquidator and the same is annexed at Annexure-B of the application typeset.

7. The Learned Counsel for the Applicant has filed a memo *vide S.R.No.774 dated 17.02.2023* wherein it was stated in para 4 of the application that the AFA of the nominated Liquidator Ms.J.Karthiga with registration IBBI/IPA-001/IPP00752/2017-2018/11284 has been put on hold pursuant to issue of SCN by IBBI in another CIRP, which she is in the process of defending.
8. Further it is stated in para 5 of the Memo wherein it was stated that the Applicant cannot be appointed as Liquidator, SBI which holds 74.54% vote share has now resolved to recommend Mr. Mahalingam Suresh Kumar with Registration IBBI/IPA-001/IP-POO110/2017-2018/1027 to be appointed as Liquidator in the present application.
9. It is further seen in the Memo that the Learned Counsel for the applicant has annexed the following documents:
 - a) Letter from State Bank of India
 - b) The Consent in Form AA of Mr.Mahalingam Suresh Kumar to act as Liquidator



- c) The Copy of his Certificate of Registration with
IBBI
- d) The copy of his AFA valid till 20.11.2023.
10. It is seen from the application that the applicant had annexed **Form-H** and the same is placed at **Annexure-D** of the Application typeset. It is seen from the Form-H that there are no PUFЕ applications pending in this matter.
11. Heard the submissions of the Learned Counsel for the applicant.
12. With respect to **Prayer (a)** of the application, we are favorably inclined to condone the delay of 41 days from 07.12.2022 till date of filing the present Application. Accordingly, the said delay of **41 days** is hereby **condoned**.
13. In so far as Liquidation is concerned, since AFA of the nominated Liquidator Ms.J.Karthiga with registration IBBI/IPA-001/IPP00752/2017-2018/11284 has been put on hold pursuant to issue of SCN by IBBI in another CIRP and as averred earlier that SBI holds 74.54% vote share has now resolved to recommend Mr. Mahalingam Suresh Kumar as the Liquidator. These events are post



the resolutions for approval of Liquidation of the Corporation Debtor by the Committee of Creditors.

14. Thus, as a consequence thereof, the Corporate Debtor is required to be ordered for liquidation as per Section 33(1)(a) of IBC, 2016. We hereby appoint **Mr. Mahalingam Suresh Kumar**, with (**Reg. No: IBBI/IPA-001/IP-P00110/2017-2018/10217**) and e-mail Id: **msureshkumar@icai.org**) (**AFA valid till 20.11.2023**) as the Liquidator of the Corporate Applicant, to carry out the liquidation process subject to the following terms of the directions.

- a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended upto date enjoined upon her.
- b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.
- c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority.



- d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and to the Insolvency and Bankruptcy Board of India;
- e) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory authorities which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.
- f) 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.
- g) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016.
- h) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section – 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.
- i) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further report as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.

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j) Copy of this order be sent to the financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor.

15. Accordingly, IA/80/CHE/2023 filed for Liquidation of the Corporate Debtor stands **allowed**.

SAMEER KAKAR
MEMBER (TECHNICAL)

JUSTICE RAMALINGAM SUDHAKAR
PRESIDENT

Sriram Ananth .V