

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH : C-IV

IA-26/2024 IN CP(IB)-17(MB)/2019

Under Section 33 of the Insolvency &
Bankruptcy Code, 2016.

Mr. Vikas Prakash Gupta,
... Resolution Professional/Applicant

In the matter of

Punjab National Bank
... Financial Creditors

Vs.

OGD Services Limited
... Corporate Debtor

Order pronounced on: **29.04.2024**

Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant/RP

: Ms. Saloni Kapadia a/w Mr. Karan
Khetani i/b Cyril Amarchand
Mangaldas, Advocates.

ORDER

1. This is an application filed by Mr. Vikas Prakash Gupta, Resolution Professional of the Corporate Debtor on 11.01.2024, seeking liquidation of **OGD Services Limited** under Section 33 of Insolvency and Bankruptcy Code, 2016 (hereinafter called as the "Code").

2. **Brief facts of the Application are as follows:**

2.1. This Tribunal vide an order dated 09.02.2023 in Company Petition bearing CP(IB)-17(MB)/2019 filed under Section 7 of the IBC, 2016, by the Financial Creditor viz. Punjab National Bank (hereinafter referred to as the "Financial Creditor") admitted the petition and Corporate Insolvency Resolution Process (CIRP) was initiated against OGD Services Limited [CIN: U93090MH2006PLC163779] (hereinafter referred to as the "Corporate Debtor"). The applicant viz. Mr. Vikas Prakash Gupta was appointed as Interim Resolution Professional by this Tribunal vide same order. He was later appointed as Resolution Professional (RP) in the first CoC meeting held on 16.03.2023.

2.2. The Applicant issued invitation of Expression of Interest (IEOI) on 10.04.2023. Pursuant to the IEOI, three EOIs were received. A provisional list of prospective resolution applicants (PRA) who are eligible to submit resolution plan in the Corporate Debtor was shared with the CoC. Further, there had been a request for extension of time for submitting an EOI. After discussion, the CoC members decided to extend the timeline for submission of EOI by issuing fresh Form G in order to encourage

wider participation from the interested parties in the resolution process of the Corporate Debtor.

2.3. Ld. Counsel for the Applicant submits that the Applicant had issued another IEOI on 10.05.2023 for inviting interests for submitting bid for the Corporate Debtor. In the fifth meeting of CoC which was held on 20.07.2023, the CoC members accorded their approval for re-publication of the IEOI. Therefore, the IEOI was re-published on 04.08.2023.

2.4. In the seventh meeting of the CoC which was convened on October 6, 2023, the terms of the IM, RFRP and the EM stood finalised by the CoC members and the revised timeline for the receipt of resolution plan was resolved as November 5, 2023. Thereafter, the IM was also published on October 6, 2023.

2.5. Counsel for Applicant submits that two of the PRAs requested for an extension in the timeline for the submission of resolution plan. In the eighth meeting of the CoC which was convened on October 4, 2023, it was *inter alia* resolved that the last date to submit resolution plan should be extended by plans by 3 (three) weeks i.e. to November 25, 2023 which would be subject to the extension of the CIRP. On December 22, 2023 this Bench allowed second extension IA and the CIRP Period stood extended up to January 6, 2024.

2.6. Counsel for the Applicant submits that the Nineth CoC meeting was held on November 28, 2023, wherein a draft resolution plan dated November 24, 2023 ("Resolution Plan") was submitted from one of the PRAs i.e., UV Stressed Asset Management Pvt Ltd in consortium with Mr Pramod

Sharma ("RA"). The said resolution Plan was made available to the members of the CoC for scrutiny and discussion.

2.7. Ld. Counsel for the Applicant submits that the Eleventh CoC Meeting was convened on December 14, 2023 and was thereafter adjourned and finally held on December 19, 2023, wherein, on scrutiny, the CoC was apprised of two major concerns regarding the feasibility and viability of the Resolution Plan. Certain amendments were suggested from the members of the CoC and the Applicant. The RA agreed to discuss the said amendments internally and submit a final version of the Resolution Plan thereafter.

2.8. Counsel submits that in the thirteenth meeting of the CoC, which was convened initially on January 2, 2024, members of the CoC were apprised about the receipt of the revised draft Resolution Plan which did not conform with the provisions of the request for Resolution Plans ("RFRP") and the representative of the RA informed the CoC that the final Resolution Plan would be submitted by January 03, 2024. Furthermore, the CoC was apprised about the possible scenarios in the event of liquidation of the Corporate Debtor and it was resolved and approved that the Corporate Debtor's assets will be sold on a going concern basis in accordance with Regulation 32 of Insolvency and Bankruptcy Board of India (Liquidation Process), Regulations, 2016.

2.9. The Thirteenth CoC Meeting was reconvened on January 05, 2024. The CoC members were apprised that the final signed copy of the Resolution Plan received by the Applicant, was not different in terms of the

commercials contained therein. Further, the members were also apprised that the said final Resolution Plan was still non-compliant with the RFRP, particularly clause 6.1.1. of the RFRP.

- 2.10. Ld. Counsel for the Applicant submits that the CoC members unanimously resolved that owing to non-receipt of any adequate/ RFRP compliant Resolution Plan for the resolution of the Corporate Debtor, liquidation process is to be initiated against the Corporate Debtor in accordance with Section 33 of the Code and authorised the Applicant to take all the necessary steps in furtherance of the same, and the CoC passed a resolution with 100% voting, in favour of liquidation of the Corporate Debtor. Accordingly, the Applicant filed this Application for approval of Liquidation of the Corporate Debtor.
3. Considering the facts and circumstances as submitted by the Applicant in the Application and by the Counsel appearing for the Applicant, this Bench is of the considered view that the Corporate Debtor be liquidated. Accordingly, this Bench orders that -
- a. The Corporate Debtor viz. OGD Services Limited [CIN: U93090MH2006PLC163779] is 'under liquidation' w.e.f. the date of the order.
 - b. Ms. Kala Agarwal, an Insolvency Professional, having IBBI Registration Number: IBBI/IPA-002/IP-N00841/2019-2020/12734, is hereby appointed as 'Liquidator' to conduct liquidation process of OGD Services Limited as provided under Section 34(1) of the Code.

- c. The Liquidator would be entitled to the fees as mutually agreed between the Liquidator and the CoC or as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016 to conduct the liquidation proceedings.
- d. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016. The Liquidator to send this order to the RoC under which this Company has been registered.
- e. The Liquidator appointed under section 34(1) of the Code, will have all powers of the Board of Directors, Key Managerial Personnel and the Partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the Liquidator.
- f. The Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the RoC under which this Company has been registered.
- g. The personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- h. On having liquidation process initiated, 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 proceedings on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.

- i. The Liquidator shall take necessary legal action to recover the Trade Receivables and other Credits such as Loans and Advances from the parties which are reflected in the latest Balance Sheet of the Corporate Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed u/s. 33(5) of the Code.
 - j. This liquidation order u/s 33(7) 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.
 - k. Moratorium declared vide Order dated 09.02.2023 in CP(IB)-17(MB)/2019, henceforth ceased to exist.
 - l. The Liquidator shall submit the progress report of liquidation periodically.
4. With the above directions, the IA-26/2024 in CP(IB)-17(MB)/2019 filed u/s 33 by the Applicant is hereby **allowed** and **disposed of**.

Sd/-
Anu Jagmohan Singh
Member (Technical)

Sd/-
Kishore Vemulapalli
Member (Judicial)

29.04.2024/-