

NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

205. IA/2087/2020 C.P. (IB)/2729(MB)2019

IN THE MATTER OF

PUNJAB NATIONAL BANK

... Petitioner

Vs

DREAM MERCHANT CONTENT PRIVATE LIMITED

... Respondent

U/s 7 of the Insolvency and Bankruptcy Code, 2016

Order Delivered on 04.10.2023

CORAM:

MS. REETA KOHLI,
MEMBER (J)

SH. SANJIV DUTT,
MEMBER (T)

Appearance:

For the Applicant: Adv. Agam H Maloo (RP)

For the Respondent: None present.

ORDER

IA 2087 of 2020- The above application I.A. No. 2087 of 2020 is filed by Resolution Professional, Mr. Mukesh Verma (hereinafter referred to as the "Applicant") seeking liquidation of Dream Merchant Content Private Limited (hereinafter referred to as the "Corporate Debtor") under Section 33 (2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as "the Code"), praying for following reliefs:

- a. That the exclusion of the lockdown as applicable to Mumbai, where: the registered Office of the CD is located, Le. for the period starting be allowed, as per the orders of Hon'ble NCLAT vide Suo Moto Company Appeal dated 30th March 2020.*
- b. That the Corporate Debtor be ordered and directed to be liquidated as per Section 33 (2) of the Code:*
- c. That the Committee of Creditors may be directed to pay the CIRP cost to the RP immediately.*

- d. That the reduction of the professional fees of the RP for the lockdown period may not be allowed and directions be given to the COC to make payment of full fees for the lockdown period.*
- e. That the Applicant may be granted permission to file Avoidance Transactions Report once the Transaction Auditors report is received and discussed in the COC.*
- f. For such other and further reliefs as the Hon'ble Tribunal, Mumbai Bench, may deem fit in the facts and circumstances of the present case.*

2. The brief facts of the application are as follows:

- A. The Applicant mentions that this Tribunal vide its order dated 24.10.2020 in Company Petition No. 2729/IB/MB/2019 admitted the petition under Section 7 of the Code, filed by Punjab National Bank (hereinafter referred to as the "Financial Creditor") and Corporate Insolvency Resolution Process (hereinafter referred to as the "CIRP") was initiated against the Corporate Debtor. The Applicant was appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal.
- B. It is further stated by the Applicant that on 13.11.2020 a public announcement was made in two newspapers to intimate the CIRP against the Corporate Debtor.
- C. On 29.11.2020, the 1st meeting of the Committee of Creditors (hereinafter referred to as the "CoC") took place wherein the Applicant was appointed as the RP of the Corporate Debtor by the CoC.
- D. The Applicant submits that after receiving the approval from the CoC in the 2nd CoC meeting dated 06.01.2020, the Invitation for Expression of Interest in Form-G was published on 08.02.2020 in leading newspapers such as Free Press Journal, and Navshakti. Thereafter, since no major response was received, the CoC in the Fourth Meeting dated 29.02.2020 decided and approved the Second Publication of Expression of Interest under Form-G with relaxed eligibility criteria

and the Form-G was published on 03.03.2020 in two newspapers in Free Press Journal and Navshakti and as per this Form-G, the last date of receipt of the EOI was mentioned as 19.03.2020 and the last date of submission of the Resolution Plan was mentioned as 27.04.2020.

E. The Applicant submits that in the 6th CoC Meeting dated 24.09.2020, the CoC discussed about the publication of Form-G for the third time. However, the CoC has resolved the Corporate Debtor should go for liquidation and the same has been approved by 100% voting

F. The CoC further resolved that *“the CoC sole member could not suggest the name of the liquidator at this stage as certain internal procedures have to be followed for identifying the liquidator and for fixing his remuneration and that the approval of Committee of Creditors be and is hereby accorded for recommending the name of the liquidator and his remuneration to Hon’ble NCLT at a later stage”*.

3. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, the Counsel for the Applicant submits that since no Expression of Interest was received, there was no option but to put the Corporate Debtor Company into Liquidation as per the Code to protect the asset of the Corporate Debtor from further deterioration.

4. It is observed that the CoC in its 6th CoC meeting dated 24.09.2020 approved to liquidate the Corporate Debtor with 100% voting in view of not getting any Expression of Interest. This Tribunal has very limited judicial review in such matters of commercial wisdom, therefore, there is no option except to allow the above Liquidation Application.

5. The Bench hereby appoints Ms. Smita Gupta (IBBI Registration No. IBBI/IPA-001/IP-P-02768/2023-2024/14283) as Liquidator to carry out the process of Liquidation of the Corporate Debtor. This Bench, therefore is of considered opinion that this is a fit case for ordering Liquidation as going concern of the Corporate Debtor. Accordingly,

the above Interlocutory Application Number 2087 of 2020 is **allowed** directing the Liquidation of the Corporate Debtor. Accordingly, we pass the following:

ORDER

- a. The above I.A. No. 2087 of 2020 is allowed and the Corporate Debtor **Dream Merchant Content Private** is ordered to be liquidated as a going concern for the first attempt and if it fails, then sale by other methods should be tried.
- b. Ms. Smita Gupta, having Registration No. IBBI/IPA-001/IP-P-02768/2023-2024/14283, having office at: Flat no 702, 7th floor, Godrej Central J Tower, Shell Colony, Near Tilak Nagar Railway Station- Maharashtra ,400071 , is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
- c. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
- 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.
- e. The Liquidator appointed under section 34(1) of the Code will have all the 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. That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter III 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. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.
- h. That 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.
- i. That 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 proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.
- j. 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.

With the above directions, this application i.e. I.A. No. 2087 of 2020 is hereby **allowed** to the extent of ordering liquidation only with no observations on other prayers as the same were not pressed for by the Applicant. Hence, the IA is **disposed of**.

Sd/-
SANJIV DUTT
Member(Technical)

Sd/-
REETA KOHLI
Member(Judicial)

/z/