

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

**MA/943/2019
IN
CP/1433/IB/2018**

Application filed under sections 33(1)(a), 33(2) & 34(1) of the IBC, 2016

In the matter of M/s. PVS Textiles Private Limited

Mr. Mahalingam Suresh Kumar, RP
Resolution Professional
Representing Corporate Debtor
(M/s. PVS Textiles Private Limited)

...Applicant

Order delivered on: 16.09.2019

CORAM:

**B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)
S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)**

For the Applicant: *Shri. A.G Sathyanarayana, Advocate
For Shri. M. Suresh Kumar, RP*

ORDER

Per: B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

Heard and dictated in Open Court on: 06.09.2019

It is an MA filed u/s 33(2) of the Insolvency & Bankruptcy Code, 2016 ("the Code") by the Resolution Professional of M/s. PVS Textiles Private Limited (Corporate Debtor) seeking liquidation of the Corporate Debtor based on the resolution passed by CoC in its

4th meeting held on 03.09.2019 with a requisite majority as contemplated under I & B Code, 2016.

2. Upon the admission of this CP on 08.03.2019 and appointment of IRP, the said RP held first CoC meeting on 05.04.2019 based on collation of claims received and on constitution of the CoC with two financial creditors, namely Corporation Bank and Indian Bank (Financial Creditors), wherein the IRP was confirmed as RP.

3. In compliance of this Code, the two valuers appointed ascertained the liquidation value of the plant, machinery and land & building of the Corporate Debtor, based on their valuations, the RP determined the value of those assets at ₹11.24crores – land & building as ₹5.56Crores and plant & machinery as ₹5.68Crores. Subsequent thereto, the CoC, in its 2nd meeting dated 16.05.2019, passed a Resolution with 100% voting, which is as follows:

Following Resolution put to vote:

“RESOLVED THAT the Resolution Professional shall proceed with invitation of resolution plan by publication of Form G (Invitation of expression of Interest) in the

newspaper Dinamani and Indian Express (Coimbatore edition) on or before 20th May, 2019.

4. Despite invitation of express of interest was published in news papers, when no Resolution Applicant came forward, the CoC approved three resolutions with 100% voting which are as follows:

Resolution declared as PASSED with 100% majority:

“RESOLVED TO liquidate the corporate debtor and appoint the present RP as the Liquidator to conduct the Liquidation of the corporate debtor.”

“RESOLVED FURTHER that the fees payable to the Liquidator shall be as defined in Regulation (4)(2) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.”

“RESOLVED FURTHER that the CoC hereby directs RP to file application before Adjudicating Authority for liquidation of the corporate debtor immediately.”

5. For having the CoC approved the resolution with 100% voting for liquidation of the company, this Applicant has filed this application before this Bench. Since the CoC has decided for liquidation of the company on the ground this Company has remained closed for the last eight years, not doing business without having and valuable assets lying in the Corporate Debtor, the CoC

has decided that it is prudent to liquidate this company instead of further waiting with a hope that some Resolution Applicant would come to take over the Corporate Debtor.

6. Looking at the application and averments thereof, we are of the considered opinion that this is a fit case for liquidation, therefore, we hereby order for liquidation of the company with directions as follows:

- a) This Bench hereby orders the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing a public notice stating that the Corporate Debtor is in liquidation with a direction to the liquidator to send this order to ROC with which this company has been registered.
- b) The Resolution Professional viz Mr. Mahalingam Suresh Kumar is hereby appointed to act as Liquidator for the purpose of liquidation of the corporate debtor, therefore all powers of the board of directors, Key managerial personnel and partners of the Corporate Debtor, as the case may be,

shall cease to have effect and shall be hereby vested in the liquidator. The Personnel of the Corporate Debtor are directed to extend all co-operations to the liquidator as may be required in managing the affairs of the Corporate Debtor. The Insolvency Professional appointed as liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified under regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under section 53 of the Code.

- c) Since this liquidation order has been passed, no suit or other legal proceedings shall be instituted by or against the Corporate debtor without prior approval of this Adjudicating Authority save and except as mentioned in sub-section 6 of section 33 of the Code.

d) This liquidation order shall be deemed to be notice of discharge to the officers, employees and workmen of the Corporate Debtor except to extent of the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.

e) The liquidator is directed to carry the functions of the Liquidator as envisaged under the Insolvency and Bankruptcy Code, 2016 and also Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

7. Accordingly, this MA/943/2019 filed in CP/1433/IB/2018 is hereby allowed.

-Sd-
(S. VIJAYARAGHAVAN)
Member (Technical)

-Sd-
(B. S.V. PRAKASH KUMAR)
Member (Judicial)

VS/TJS