

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

MA 3284/2019 in CP(IB)3162(MB)/2018

(Under Section 33(3) of the IBC, 2016)

Mr. Ravi Prakash Ganti

...Applicant/
Resolution Professional

In the matter of

Indiabulls Housing FinanceLtd.

...Financial Creditor

Vs

Yashaswini Leisure Pvt Ltd ... Corporate Debtor

Order delivered on 16.10.2019

Coram:

Hon'ble Member (Judicial) Shri V.P. Singh

Hon'ble Member (Technical) Shri Rajesh Sharma

For the Applicant: Mr Ravi Prakash Ganti, Resolution Professional

For the Financial Creditor: Adv. Heena Goradia, i/b Wadia Ghandy & Co.

Per: Hon'ble Member(J) Mr V P Singh

ORDER

1. MA 3284/2019 has been filed under Section 33 (1) of the Insolvency and Bankruptcy Code, 2016, seeking liquidation of the Corporate Debtor. Applicant Resolutions Professional, Ravi Prakash Ganti has filed this application stating that Petition filed under Section 7 of IBC, 2016 was admitted by order of this Bench dated on 14.1.2019 and the applicant was appointed as the Interim Resolution Professional.
2. The applicant contends that under the order passed by this Tribunal, the IRP issued a public announcement on 16.1.2019 in compliance with Section 13, Section 15 and other applicable sections of the Code read with Regulation 6 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 in newspapers.

3. The applicant further states that the first CoC comprising of the sole Financial Creditor Indiabulls Housing Finance Ltd. was held on 12.2.2019.
4. During CIRP two valuers were appointed as per Regulation 27 of the Regulations, namely Mr Manish M Jaju and Mr Harshad Deshpande to determine the fair and liquidation value of the Corporate Debtor by Regulation 35 of the Regulations, 2016.
5. The applicant submits that in the 2ndCoC meeting held on 1.4.2019, the eligibility criteria and terms of the invitation for Expression of Interest and the Evaluation Matrix to be used for assessment of resolution plans, that may be received, were discussed and adopted. The applicant further submits that the first invitation for Expression of Interest vide Form G for inviting prospective resolution applicants was published on 3.4.2019. As per this Form G, the last date of receipt of EOI was 27.4.2019, and the last date of submission of the Resolution Plan was 2.6.2019.
6. The applicant further submits that in the 3rd meeting of CoC held on 3.6.2019; no EOI was received. The applicant also submits that since the CIRP period was to expire, the RP sought extension of CIRP by further 90 days, which was granted by this Tribunal vide order dated 10.7.2019 which expired on 11.10.2019. In the 3rdCoC meeting the CoC also decided to re-publish the Form G.
7. The second invitation for EOI vide Form G was published in the newspaper on 7.6.2019. As per the revised Form G, the last date of receipt of EOI was 22.6.2019, and the last date of submission of the resolution plan was 30.7.2019.
8. The applicant submits that even after re-publishing the invitation for EOI on 30.7.2019, not a single response was received. Therefore, the CoC in the 4th meeting held on 25.9.2019 the CoC decided to liquidate the Corporate Debtor and passed the resolution for liquidation of the Corporate Debtor with 100% vote share and further authorized the RP to file necessary application before the Adjudicating Authority seeking order of liquidation as per Provisions of Section 33(1)(a) of the IBC, 2016.
9. Accordingly, the Applicant filed the present Application seeking orders under Section 33 of the Code for liquidation of the Corporate Debtor.

10. In the above circumstances, the 270 days period for completion of the CIRP expired on 11.10.2019, but no resolution plan was received for the Corporate Debtor. Therefore the Applicant/Resolution Professional has filed this application for the liquidation of the Corporate Debtor in terms of Section 33(1) of the Code. Given the provisions of Section 33 of the Code, this application deserves to be allowed.

ORDER

11. MA 3284/2019 is allowed, and we at this moment pass the order of liquidation Section 33 of IBC as follows:

- a. That the Corporate Debtor is 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 under which this Company has been registered.
- b. As to the appointment of Liquidator, Mr.Ravi Prakash Ganti, Resolution Professional at this moment appointed to act as a Liquidator for the liquidation of Corporate Debtor company with all powers as envisaged in the Code.
- c. On such appointment under Section 34 of the Code, all powers of the Board of Directors, key managerial personnel and the partners of the Corporate Debtor shall cease to affect and shall be vested in the Liquidator.
- d. That the personnel of the Corporate Debtor shall extend all co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.
- e. That the 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 Insolvency and Bankruptcy (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.
- f. Since this liquidation order has been passed, subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor, in the event of initiation of a suit or legal proceeding by the liquidator on the corporate debtor behalf, it may initiate such proceedings with prior approval of the Adjudicating

Authority, save and except as mentioned in sub-section 6 of Section 33 of the Code.

- g. This liquidation order shall be deemed to be notice of discharge to the officers, employees and workers of the Corporate Debtor except to the extent of the business of the Corporate Debtor continuing during the liquidation process by the Liquidator.
12. Moratorium declared vide Order dated 14.1.2019 in CP No.: 3162/2018 ceased to exist.
13. The registry is directed to communicate this order to the Liquidator immediately even by way of e-mail.
14. MA 3284/2019 is disposed of accordingly.

Sd/-
RAJESH SHARMA
Member (Technical)

Sd/-
V. P. SINGH
Member (Judicial)