

IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT NO. 5, MUMBAI BENCH

M. A. 3984/2019

In

C.P. 4216/I&BP/NCLT/MAH/2018

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

In the matter of

Central Bank of India

... Financial Creditor

vs.

Loyal Auto Globe Private Limited

... Corporate Debtor

M. A. No. 3984/2019

Jitender Kumar Jain

Resolution Professional

... Applicant

Order delivered on: 27.01.2020

Coram: Hon'ble Smt. Suchitra Kanuparthi, Member (J)

Hon'ble Shri. V. Nallasenapathy, Member (T)

For the Applicant: Jitender Kumar Jain, PCS

Per: V. Nallasenapathy, Member (T)

ORDER

1. The Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor by an order dated 12.03.2019, on a Section 7 Petition filed by the Financial Creditor, wherein Mr. Tejas Jatin Parikh, was appointed as Interim Resolution Professional (IRP).

2. The first meeting of Committee of Creditors (CoC) was held on 12.03.2019, wherein the IRP has expressed his unwillingness to continue as Resolution Professional (RP) of the Corporate Debtor and in second CoC meeting on 10.06.2019, Mr. Jitendra Kumar Jain, the applicant herein was appointed as the RP of the Corporate Debtor. By order dated 21.08.2019,

this Tribunal confirmed the appointment of the applicant as the RP for the Corporate Debtor.

3. The applicant submits that only one claim was received from Central Bank of India for ₹33,03,33,553/-.

4. The applicant further submits that the assets of the Corporate Debtor were illegally attached/sealed under the provisions of the Maharashtra Protection of Interest of Depositors Act, 1999 (MPID Act) by the appropriate authority appointed by Government of Maharashtra. The applicant vide letter dated 31.08.2019, informed the Maharashtra Government about the CIRP of the Corporate Debtor and consequences thereof and requested the Maharashtra Government to release all immovable properties of the Corporate Debtor. However, due to no response from the Maharashtra Government, the applicant filed M.A. 3189 of 2019 before this Tribunal for release of attachment over the asset of the Corporate Debtor from MPID Act.

5. The applicant prepared the information memorandum as per Regulation 36 of the CIRP Regulation and a copy thereof was circulated in electronic form on 05.09.2019 as per Regulation 36(1) of the CIRP Regulations.

6. The Applicant submits that in the third CoC meeting held on 06.09.2019, the CoC by 100% majority decided to extend the CIRP period by 90 days and accordingly M.A. No. 3012 of 2019 for extension of CIRP period was filed and CIRP period was extended by 90 days and the same expired on 06.12.2019.

7. On 05.12.2019, the fifth CoC meeting was held wherein the applicant informed the CoC members that CIRP will end on 06.12.2019 and even the properties of the Corporate Debtor are not yet released from attachment under the MPID Act, it was not possible to carry out even the valuation of the properties which requires physical inspection.

8. It is further submitted by the applicant that no valuation of the properties of the Corporate Debtor was done in view of the attachments under the MPID Act and it was not possible for the valuer to physically inspect the properties of the Corporate Debtor for the purpose of valuation as mandated by Regulation 35 of the IBBI Regulations, 2016.

9. Since CIRP period of 270 days ended on 06.12.2019 and no resolution plan has been received for the Corporate Debtor, the CoC decided to liquidate the company, hence, this application is filed for the liquidation of the Corporate Debtor under Section 33 of the Code.

10. Mr. Jitender Kumar Jain, Insolvency Resolution Professional/ Applicant herein has given his consent to act as a liquidator of the Corporate Debtor.

11. On hearing the submissions of the applicant and on reading the Application and the documents enclosed therein, for the IRP has complied with the procedure laid under the Code read with Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, on verification, we are of the view that this is a fit case to pass liquidation order under sub-section 2 of section 33 of the Code as the CoC decided to liquidate the Corporate Debtor and accordingly this Bench orders:

- a. that the Corporate Debtor be liquidated in the manner as laid down in the Chapter III of the Code 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.
- b. that Mr. Jitender Kumar Jain, Resolution Professional herein is hereby appointed as Liquidator as provided under Section 34(1) of the Code.
- c. that 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.
- d. 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.
- 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 by the IBBI and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.

- f. 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.
- g. that this liquidation order shall be a deemed to be 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.

12. 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 in the liquidator.

13. Accordingly, this Misc. Application is hereby allowed directing 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.

SD/-
V. Nallasenapathy
Member (Technical)

SD/-
Suchitra Kanuparthi
Member (Judicial)