

THE NATIONAL COMPANY LAW TRIBUNAL
COURT-IV
AT NEW DELHI

I.A. 806/ND/2021

IN

Company Petition No. (IB) – 697 (ND)/2018

Under Section 33(1) (a) of the Insolvency and Bankruptcy Code, 2016 for liquidation of the corporate debtor

In the matter of:

Mr. Devinder Arora

... Applicant/Resolution Professional

AND

In the matter of:

M/s The State Trading Corporation of India Limited
3rd Floor, Trade World, C Wing, Kamala Mill,
Senapati Bapat Marg, Lower Parcel (West)
Mumbai-400013

... Operational Creditor

Versus

M/s Space Vision Impex Private Limited
Having Registered office at
D-14, Kailash Colony
New Delhi-110048

.... Corporate Debtor

*Order delivered on: **21.02.2022***


CORAM:

DR. DEEPTI MUKESH, HON'BLE MEMBER (JUDICIAL)

MS. SUMITA PURKAYASTHA, HON'BLE MEMBER (TECHNICAL)

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ORDER

Per SMT. SUMITA PURKAYASTHA, MEMBER (TECHNICAL)

1. This is an application filed by the Resolution Professional under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for issuance of directions for liquidation of the Corporate Debtor.
2. The facts in brief are that the above noted case was filed by the Operational creditor, M/s The State Trading Corporation of India Limited (for brevity "STC") under section 9 of IBC to initiate CIRP against the corporate debtor and the same was admitted by this Tribunal vide its order dated 08.05.2019.
3. That the first meeting of the committee of creditors was held on 24.06.2019 in which the sole member of the CoC i.e STC did not resolve for replacement of IRP by another Resolution Professional or appointed the IRP as RP. In this CoC meeting inter alia the following proposal were placed of approval and voting of the COC
 - i. Fixation of fees of IRP
 - ii. Appointment of RP
 - iii. Approval of following expenses incurred by the IRP

S.No	Particulars of Expenses	Amount
1.	Fees for Legal Counsel	50,000
2.	Court fee	2,000

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3.	Travelling Expenses incurred by the IRP	380
	Total	52,380

S. No	Particulars	Amounts
1.	Particulars of Public Announcement Expenses	13,524
	Total	13,524

4. That the IRP sent various e-mails reminders and Telephonic discussions with sole member of CoC for approval of the appointment of RP, fixation of fees of IRP/RP approval of CIRP expenses incurred but no approval was conveyed.
5. That the IRP conducted the 2nd CoC meeting on 13.11.2019 and the following proposals were approved in the meeting:

- Approval of RERP, Evaluation Matrix, eligibility Criteria format of LOI, Approval of Invitation of LOI.
- The approval of fee of Valuers.

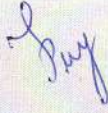
The proposals pending approval of 1st CoC meeting were again placed in the 2nd CoC meeting and considered but the CoC again informed that they will get approval from seniors and convey the decisions.

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6. That the IRP had appointed Ranjana, Vandana and Company, CA, Delhi, Statutory Auditor of the company for finalization and audit of the Accounts for the Financial Years 2017-18, 2018-19 and for the period 01.04.2019 to 08.05.2019. Their Fee is yet to be approved by CoC.
7. That the third meeting of CoC was held on 31.03.2020 in which Item No. 07 and Item No. 8 the resolutions were passed with 100% voting.
8. That the CIRP in the case and the Resolution for liquidation of the corporate debtor was passed by CoC with 100% on 31st January, 2020 that is before the expiry of 270 days. The sole CoC member has not conveyed their approval of the following proposals till date:
- i. Appointment of RP
 - ii. Approval of fee of RP (proposed at Rs. 2,00,000 per month)
 - iii. Fixation of fees of RP(proposed at Rs. 2,00,000 per month)
 - iv. Approval of CIRP expenses incurred by IRP.
 - v. Approval of fees, taxes, travelling expenses to Karnataka (Bangaluru and Gurbarga) of two valuers amounting to Rs. 1,60,000.

The IRP has incurred the following expenses for the smooth functioning of CIRP:

S. No	Particulars	Amount
1	Fees for Legal Counsel	2,00,000
2	Travelling Expenses incurred by the IRP for visiting office of Corporate debtor along with his team at Kailash Colony on 05.06.2019 and 13.06.2019 from Connaught Place and also to M/s State Trading Corporation India Limited and NCLT/NCLAT	2,780
3	Form-G Publication Cost	20,160
4	Invoice raised by the Statutory Auditor of the Corporate debtor for the preparation of Balance Sheet dated 08.05..2019	17,700
5	Court Fees	5,000
6	Invoice raised by the Statutory Auditor of the Corporate debtor for the Statutory Audit as on 31.03.2019	34,810
	Total	2,80,450

 After number of Emails and telephonic discussion, the sole CoC member conveyed their written approval on 10.08.2020 for the following approvals:-

- Recommendation for liquidation of CD
- Recommendation for appointment of Mr. Devinder Arora IRP as Liquidator.

9. That the application for liquidation of the corporate debtor has been delayed due to the following reason:

1. Late receipt of written approvals from the sole CoC member.
2. A number of approvals regarding appointment of IRP, fixation of fees of IRP/RP, approval of CIRP expenses including fees of valuers are still pending.
3. That Mr. Devinder Arora suffered Covid-19 which was detected positive as per test report dated 20.11.2020.

10. That it is submitted that the RP Mr. Devinder Arora has annexed his Written Consent dated 12.10.2019 FORMAA with this application to act as Liquidator in the present case under the Code.

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11. In view of the submission made, the liquidation has to follow as recommended by the Committee of Creditors in terms of provisions of Section 33 (1) of the Code. Adherence to statutory requirement has to be in toto. When the language of the Code is clear and explicit the

Adjudicating Authority must give effect to it whatever may be the consequences and in present case the consequence is liquidation of Corporate Debtor.

12. In the factual background, the payer for liquidation of the corporate debtor under Section 33 of the Code is hereby allowed.

13. Resultantly, the present application IA No. 806/2021 stands allowed and hereby it is ordered that liquidation of the corporate debtor, namely M/s. Space Vision Impex Pvt. Ltd. shall be commenced in the manner laid down in the Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 along with following directions:

- a. Mr. Devinder Arora, having registration number IBBI/IPA-002/IP-N00117/2017-18/10586, is appointed as Liquidator in terms of Section 34(1) of the Code.
- b. Mr. Devinder Arora, is directed to issue Public Announcement stating that the corporate debtor is in liquidation, in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (Regulations);

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- c.** The Registry is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;
- d.** The Order of Moratorium passed under Section 14 of the Code shall cease to have its effect and that a fresh Moratorium under Section 33(5) of the Code shall commence;
- e.** The Liquidator is directed to proceed with the process of liquidation in the manner laid down in Chapter III of Part II of the Code and in accordance with the relevant regulations.
- f.** The liquidator shall follow up and investigate the financial affairs of the corporate debtor in accordance with provisions of Section 35 (l) of the Code.
- g.** The liquidator shall also follow pending application, if any, for its disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.
- h.** The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Regulations.

Resultantly the present application stands allowed

- i. Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator along with RoC for taking necessary steps. The Roc is directed to update the master data and reflect the correct status of the corporate debtor.

- Sd -

(SUMITA PURKAYASTHA)

MEMBER (T)

- Sd -

(DR. DEEPTI MUKESH)

MEMBER (J)