

(IB) No. 799 of 2021, filed by DBS Bank India Limited, under Section 7 of the Insolvency and Bankruptcy Code, 2016 (the Code) and the Applicant herein was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor.

- b. It is submitted that following the same order of the Bench appointing **Mr. Anurag Jain**, the Applicant herein as the Interim Resolution Professional of the Corporate Debtor to carry out the Function as mentioned under Insolvency and Bankruptcy Code, 2016.
- c. Pursuant to the above said Order, the Applicant herein issued a Public Announcement in two Newspapers (**i.e. one in Free Press Journal, Mumbai Edition and another one in Navakaal**), on 01.10.2022, in **FORM A**, thereby calling upon the Creditors of the Corporate Debtor to file their claims, along with proof, on or before 12.10.2022.
- d. It is averred that 1st Meeting of the Committee of Creditors (CoC) of the Corporate Debtor was held on 28.10.2022, wherein, the Applicant herein has informed the CoC about the actions taken by him after the commencement of CIRP and elaborated various business affairs of the Corporate Debtor. It is further averred that Applicant herein has also informed CoC that Demand Notice will be sent to tenants for recovery for the outstanding rent, and the team also presented the estimated monthly inflow

from the rent would be Rs. 5,26,000/-, which would be enough to meet the CIRP Cost.

- e. Further, the CoC has approved Resolutions in their 1st Meeting, wherein, the Applicant herein has been confirmed to act as the Resolution Professional of the Corporate Debtor. CoC in the said meeting has also approved to appoint two Registered Valuers for all classes, and authorised the Applicant herein to appoint **'Bagchi & Gupta', Chartered Accountants**, to conduct the Transaction Audit for the past Four Years. Further, the CoC in the said Meeting has also approved to issue invitation for Expression of Interest and to keep it open until the expiry of at least 20 days from the date of publication.
- f. Pursuant to the said Approval, the Applicant herein had issued Form G - Invitation for Expression of Interest (EoI) dt. 19.11.2022, wherein, Last date for receipt of EoIs was 09.12.2022; date of issuance of provisional list of Prospective Resolution Applicants was 19.12.2022; and the last date for submission of Objections to provisional list was 26.12.2022.
- g. It is further averred that in the 2nd CoC meeting held on 21.12.2022, the Applicant herein informed the CoC members about the additional claims received from Financial Creditors and Operational Creditors and provided the CoC members with a summary of the claims against the Corporate Debtor. The Applicant herein presented the Cash Flow of the Corporate

Debtor from 28.09.2022 till 20.12.2022. The Applicant further informed the CoC members that he had received Four (4) EoIs from PRAs and the entities had submitted the documents as per the process memorandum out of which one had not paid the EMD, and he had also provided the details of the entities who had responded to the publication of Form-G. It has been informed that Request for Resolution Plan (RFRP) and an Evaluation Matrix had already been circulated in advance to the CoC members and requested the CoC members to deliberate on the same. CoC members in the said meeting has also accorded approval to the Evaluation Matrix with specified criteria; and according approval to the evaluation process, related parts of the Request for Resolution Plan.

- h. It has been further averred that the Applicant informed the CoC members about the E-mail received from Shanti G.D. Ispat and Power Private Limited, requesting to extend the due date for the submission of the Resolution Plan by at least One Month, and the Representatives from the Standard Chartered Bank and DBS Bank India Limited, extended the time limit for submission of Resolution Plans up to 10.02.2023, contending that it would be better to get more Resolution Plans in order to maximize the value of the assets. CoC members requested the Applicant to inform all PRAs about the extension of the due date for

submission of the Resolution Plan, which will enable them to improve the offer.

- i. In the 4th CoC meeting held on 27.02.2023, the Applicant again informed the CoC members that the only source of revenue generation for the Corporate Debtor is rental income and by the Month of March, 2023, a cash inflow of approx. Rs. 10,00,000/- is expected. In the said Meeting, the Applicant further informed the CoC members that an amount to the tune of Rs. 16.92 Crores is receivable as per the available books of Accounts of the Corporate Debtor. He further informed that no Resolution Plan was received from Shanti G.D. Ispat & Power Private Limited, who had sought extension of time to submit Resolution Plan, and who has also sent an E-mail for refund of the EMD amount as they did not want to participate further in the process.
- j. It is further informed by the Applicant to the CoC that Nopea Capital Services Private Limited chose to neither share the password for the Resolution Plan submitted via soft copy nor to submit the Resolution Plan in the hard copy. It is further submitted that if a fresh Form G is to be issued then an Extension of 90 days in the CIRP period of the Corporate Debtor will be required and thus an Application for the same will have to be filed. Accordingly, the CoC approved Resolution for extension of the CIRP Period.

- k. Thereafter in the 5th CoC meeting held on 16.05.2023, the Applicant had placed the Resolution Plan received from the sole Resolution Applicant i.e. Mr. Vicky Shah, its vetting report and report on 29A eligibility, for deliberation by the members and also to deliberate on its feasibility and viability and to finally decide on its approval or rejection.
 - l. In the 6th CoC meeting held on 20.06.2023, Applicant informed about the claims received from the Creditors and he has admitted all the claims based on the details received from Claimants. He also informed that there is no change in the voting percentage from the last meeting.
 - m. It is lastly submitted that the Applicant has duly carried out his duties in accordance with the provisions of the Code and Regulations framed thereunder and has conducted the CIRP of the Corporate Debtor in the best interest of all the stakeholders. Further, the CoC members in their 7th CoC meeting, held on 25.07.2023, with 97.94% of the voting share, by majority, rejected the Resolution Plan submitted by the sole Resolution Applicant, Mr. Vicky Shah (Suspended Director/Promoter of the Corporate Debtor) and has opted for the Liquidation of the Corporate Debtor.
- 4) It is also submitted that the Applicant herein has also provided his Written Consent on 21.08.2023, to act as the Liquidator of the Corporate Debtor i.e. S K S Textiles Limited.

- 5) Hence, the present Interlocutory Application has been filed for seeking Liquidation of the Corporate Debtor.
- 6) This Bench is vested with the powers to pass an order of Liquidation of the Corporate Debtor; since, no Resolution Plan could be brought forth and voted for, and in the absence of any Resolution Plan on the table, the order of liquidation shall be passed by this Adjudicating Authority under section 33 of the Code. The said Section is quoted below for the convenience and the ready reference:

“(1) Where the Adjudicating Authority, —

(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or

(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein, it shall—

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation; and

(iii) require such order to be sent to the authority with which the corporate debtor is registered.

(2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1)”.

- 7) In that view of the matter, having considered the submissions and on perusal of averments made in the present Interlocutory Application; this Bench is satisfied and is of the considered opinion that the present Interlocutory Application is in consonance with Section 33(2) of the Code. Accordingly, this Authority has left with no option except to pass an order for Liquidation of the Corporate Debtor Company in the manner laid down in Chapter III of the Code considering the fact there is no Resolution Plan for consideration and CoC does not foresee any possibility of getting Plans for the Corporate Debtor. Hence ordered.

ORDER

- a) The Application be and the same is allowed. The Corporate Debtor, **S K S Textiles Limited**, shall be liquidated in the manner as laid down in Chapter-III of the Code.
- b) It is to be noted that, as per IBBI vide its circular no. LIQ-12011/214/2023-IBBI/840 dated 18.07.2023 in the exercise of its powers conferred u/s 34(4)(b) of the Code had recommended that an IP other than RP/ IRP may be appointed as a liquidator in all the cases where the Liquidator (read liquidation) order is passed henceforth. In view of this circular of IBBI, we hereby appoints **Mr. Rajkumar Feru Gupta**, having Registration No. **IBBI/IPA-001/IP-P-02103/2020-2021/13247** as the Liquidator to conduct liquidation process of “**S K S Textiles Limited**” as provided under Section 34(4) 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 Moratorium declared under Section 14 of the IBC 2016 shall cease to operate here from.
- e) Liquidator shall issue public announcement stating that Corporate Debtor is in liquidation.
- f) The Liquidator shall endeavour to sale the Company as a going concern during the liquidation in terms of Regulation 32A of the Liquidation Process Regulations. In case he is not able to do so within a period of 90 days from this date, he shall proceed in accordance with clauses (a) to (d) of Regulation 32 of the Liquidation Process Regulations.
- g) **Subject to Section 52 of the Code no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.**
- h) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.

- i) The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code read with the Liquidation Process Regulations.
- j) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- k) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- l) The Liquidator shall submit Progress Reports as per Regulation 15 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, and shall apprise the Bench about the Liquidation Process of the Corporate Debtor.
- m) The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.**
- n) Registry shall furnish a copy of this Order to:
 - i. **Insolvency and Bankruptcy Board of India, New Delhi;**
 - ii. **Regional Director (Western Region), Ministry of Corporate Affairs;**
 - iii. **Registrar of Companies & Official Liquidator, Maharashtra;**
 - iv. **Registered Office of the Corporate Debtor; and**

v. **Liquidator, Mr. Rajkumar Feru Gupta.**

- 8) With the aforesaid observations and directions, the Interlocutory Application bearing IA No. 5725 of 2023, stands disposed of as **Allowed.**
- 9) There would however be no order as to costs. Ordered Accordingly.

Sd/-
SANJIV DUTT
Member (Technical)

/Dubey/

Sd/-
KISHORE VEMULAPALLI
Member (Judicial)