

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

IA/931/2020 in IBA/763/2019

(filed under Section 33 of the Insolvency and Bankruptcy Code, 2016)

In the matter of ***M/s. Vajram Spinning Mills Private Limited***

S. Muthuraju

Resolution Professional of
M/s. Vajram Spinning Mills Private Limited
No.3, Sundaram Brothers Layout,
Opp. To All India Radio,
Trichy Road,
Ramanathapuram,
Coimbatore – 641 045

... Applicant /Resolution Professional

Order Pronounced on 20th April 2021

CORAM :

R. VARADHARAJAN, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)

For Applicant : *A G Sathyanarayana, Advocate*

ORDER

***Per:* ANIL KUMAR B, MEMBER (TECHNICAL)**

1. This is an application filed under Section 33(1)(a) of the Insolvency and Bankruptcy Code 2016 (in short 'IBC, 2016') seeking relief as follows:

- (i) That this Hon'ble Adjudicating Authority may be pleased to pass an order for Liquidation of the Corporate Debtor namely M/s. Vajram Spinning Mills Private Limited.
- (ii) That this Hon'ble Adjudication Authority may be pleased to pass an order that the S. Muthuraju, Resolution Professional (IBBI/IPA-002/IP-N00009/2016 – 17/10013 may be appointed as Liquidator for administering the Liquidation Process of the Corporate Debtor and.
- (iii) To pass such further or other orders as may deem fit and proper in the facts and circumstances of the case and thus render justice.

2. In Section 7 application filed by the Financial Creditor against the Corporate Debtor viz., Vajram Spinning Mills Private Limited, this Tribunal vide order dated 30.01.2020 initiated the Corporate Insolvency Resolution Process (CIRP) in relation to the Corporate Debtor and appointed the Applicant herein as Interim Resolution Professional (IRP).

3. It is averred in the application that pursuant to the Applicant being appointed as IRP, he caused Public Announcement under Section 15 of IBC, 2016 in Form-A on 02.02.2020 in English in "New India Express" and in Tamil "Dinamani" and invited claims in accordance with the provisions of IBC, 2016 and that the UCO Bank

was the sole Financial Creditor of the Corporate Debtor. Thereafter, it is submitted that the IRP has constituted the Committee of Creditors (CoC) with the sole Financial Creditor and the 1st Meeting of the CoC was held on 02.03.2020, wherein the Applicant was appointed to act as the Resolution Professional of the Corporate Debtor.

4. Pursuant thereto, it was submitted that the Applicant in accordance with Section 25 of IBC, 2016 appointed two IBBI Registered Valuers for each asset class for valuation of Land & Building and Plant & Machinery of the Corporate Debtor on 07.03.2020. The average Liquidation value of the Land & Building was arrived at ₹5,56,62,888/- and that of the Plant & Machinery was arrived as ₹1,15,01,500/-. Thereafter, the Applicant issued Expression of Interest (EoI) in Form – G on 06.08.2020 and second Expression of Interest on 28.08.2020, however there was no response from any of the prospective resolution Applicant.

5. In the 3rd CoC meeting held on 21.09.2020, the CoC discussed the current state of affairs of the Corporate Debtor and also took note of the fact that the Corporate Debtor is not carrying business for more than 5 years and that it is not fetching any income. Hence, the CoC in the 3rd CoC meeting has deliberated on the said issue and taking into

consideration the fact that the Corporate Debtor is not a running concern, in its commercial wisdom has decided to liquidate the Corporate Debtor and also recommended the present Resolution Professional to act as the Liquidator of the Corporate Debtor. The Resolution passed by the CoC in its 3rd Meeting held on 21.09.2020 is extracted hereunder;

“Resolved that

Since the Company is not carrying out its manufacturing activities for the past 6 months and inspite of two invitations there was no response from any resolution applicants for the submission of the Resolution Plans and there was no option left out, Corporate Debtor is to be liquidated and the Resolution Professional shall intimate the Adjudicating Authority about the decision of the Committee of Creditors and file an application praying for Liquidation of the Corporate Debtor.”

“Further Resolved that

The Resolution Professional shall act as Liquidator upon passing of the Liquidation Order by the Adjudicating Authority on the existing terms and conditions.”

6. Since, in the 3th CoC meeting held on 21.09.2020, the Committee of Creditors has deliberated about the current affairs of the Corporate Debtor by taking into consideration that there was no EoI being received from any prospective Resolution Applicant and also keeping in view of the fact that the Corporate Debtor is not running its business and based on its commercial wisdom has decided to

liquidate the Corporate Debtor, by taking into consideration the provisions of Section 33 of IBC,2016 and in the absence of any opposition to the Application from the Promoters of the Corporate Debtor and also guided by the decision of the Hon'ble Supreme Court in the matter of **Mr. K. Sasidharan –Vs– Indian Overseas Bank (2019) SCC OnLine SC 257** this Tribunal orders for the liquidation of the Corporate Debtor.

7. It is also seen from the records that the Applicant herein has accorded his written consent in Form AA to act as the Liquidator of the Corporate Debtor and further the Applicant also placed on record the Authorization for Assignment (AFA) issued by the Institute of Insolvency Professionals for the period from 01.12.2020 to 30.11.2021.

8. In the circumstances, **S. Muthuraj**, IBBI/IPA-002/IP-N00009/2016-17/10013, is appointed as the Liquidator of the Corporate Debtor to carry out the liquidation process subject to the following terms of the directions.

- a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and Regulations including Insolvency and Bankruptcy

(Liquidation Process) Regulations, 2017 as amended upto date enjoined upon her.

- b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.
- c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority.
- d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and to the Insolvency and Bankruptcy Board of India;
- e) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory authorities which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.

- f) The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence.
- g) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016.
- h) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section – 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.
- i) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further report as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.

j) Copy of this order be sent to the Financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor, viz., company-in-liquidation.

9. The application IA/931/2020 stands **disposed of** with the aforesaid terms.

-Sd-

ANIL KUMAR B
MEMBER (TECHNICAL)

-Sd-

R. VARADHARAJAN
MEMBER (JUDICIAL)

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