IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH (Court -I)
KOLKATA

IA(IBC)/1360(KB)2022
in
CP(IB)/1147(KB)2020

Under section 33(2) of the Insolvency & Bankruptcy Code, 2016

In the matter of:

Janpragti Commodities Private Limited …. Financial Creditor

Versus

Radission Resources Private Limited
(**CIN**: **U27100JH2013PTC001781)** .... Corporate Debtor

And

In the matter of:

Mr. Pratap Mukherjee,
Resolution Professional of Radission Resources Private Limited
… Applicant

Order reserved on: 25/01/2023

Order pronounced on: 23/03/2023

Coram:

Mrs. Bidisha Banerjee	:	**Member (Judicial)**
Shri Balraj Joshi	:	**Member (Technical)**

Appearances (through hybrid mode):

For RP	:	Ms. Rakhi Purnima Paul, Adv. Ms. Vedika Sureka, Adv. Mr. Pratap Mukherjee, RP in person
For respondent in IA(IBC)/1066(KB)2022	:	Ms. Urmila Chakraborty, Adv. Mr. Satyendra Singh, Respondent in person. Mr. Mantu Singh, Respondent in person

O R D E R

Per: Balraj Joshi, Member (Technical)

1. This Adjudicating Authority convened through hybrid mode.

2. **IA(IBC)/1360(KB)2022** is an application filed under section 33(2) of the Insolvency and Bankruptcy Code, 2016 (in short **"IBC, 2016"**) by the Resolution Professional **("RP")** of **Radission Resources Private Limited**, the Corporate Debtor, praying for liquidation of the Corporate Debtor. This application is supported by an affidavit[1] duly affirmed by Mr. Pratap Mukherjee, the RP.

3. The original application was filed u/s. 33(1(a) of the Code. However, RP vide a supplementary affirmed on 23/12/2022 states that the application shall be read u/s. 33(2) of the Code instead and in place of section 33(1)(a) of the Code.

4. This Adjudicating authority on a petition filed u/s. 7 of the IBC, 2016 by Janpragti Commodities Private Limited, *vide* order[2] dated 27/01/2022 in CP(IB)/1147(KB)2020, had ordered initiation of CIRP against Radission Resources Private Limited, the Corporate Debtor. Mr. Neeraj Jain was appointed as the Interim Resolution Professional ("**IRP**"). However, vide order dated 25/05/2022[3] passed in IA(IBC)/375(KB)2022 the said Mr. Neeraj Jain, IRP was replaced by Mr. Pratap Mukherjee, Resolution Professional ("**RP**")

5. The IRP in compliance with regulation 6(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, had published a Public Announcement[4] in **Form A** on 29/01/2022 in "*Morning India*" (English) and "*Sanmarg*" (Hindi), Ranchi Edition, inviting claims from the creditors,

[1] At pages 26 to 27 of the application
[2] Annexure "A" at pages 29 to 35 of the application
[3] Annexure "D" at pages 53 to 55 of the application
[4] Annexure "B" at pages 36 to 37 of the application

stipulating the last date of submission of claims on 10/02/2022.

6. A Committee of Creditors (in short, **"the CoC")** was duly constituted comprising of only the petitioning Financial Creditor and the 1st and 2nd meetings[5] of the CoC were duly held on 26/02/2022 and 18/04/2022 respectively.

7. At the 3rd CoC meeting[6] held on 07/05/2022 wherein it was resolved to appoint registered valuers as per regulation 27 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, to determine the fair value and liquidation value of the Corporate Debtor and one transaction auditor.

8. As per provisions of section 25(2)(h) of IBC and with due approval of the CoC, the Interim Resolution Professional had published[7] Form G dated 10/05/2022 in "*Morning India*" (English) and "*Sanmarg*" (Hindi), Ranchi Edition inviting Expression of Interest (in short **"EoI"**) from prospective resolution applicants. However, considering the fact that valuation and transaction audit exercise was not completed due to non-availability of documents and non-cooperation from the suspended members of the Board of Directors of the Corporate Debtor, no EoI in response to Form G was received.

9. At the 4th CoC Meeting[8] held on 13/06/2022, the RP apprised the CoC after being appointed as Resolution Professional by the Adjudicating Authority that due to non-receipt of required information/documents from the Corporate Debtor, Information Memorandum could not be prepared as well as valuation exercise and transaction audit exercise did not progress much.

[5] Annexure "C" at pages 38 to 52 of the application
[6] Annexure "E" at pages 56 to 67 of the application
[7] Annexure "I" at pages 138 to 139 of the application
[8] Annexure "F" at pages 68 to 73 of the application

10. Immediately after being appointed as the RP of the Corporate Debtor, it came to the notice of the RP from the Master Data that the Corporate Debtor was "Struck Off" as well as "Active Non-compliant".

11. Vide order[9] dated 24/08/2022 passed in IA(IBC)/739(KB)2022 this Adjudicating Authority had granted extension of 90 days w.e.f. 26/07/2022 thereby 270 days CIRP period had ended on 23/10/2022.

12. At the 5th CoC meeting[10] held on 16/09/2022, the sole member of the CoC upon due deliberation has passed the following resolution to liquidate the Corporate Debtor with 100% voting share, which is reproduced hereinbelow:

> *"**RESOLVED THAT** Radission Resources Private Limited be recommended for liquidation under sub-section (2) of section 33 of the Insolvency and Bankruptcy Code, 2016 since the Committee of Creditors do not find any prospect of receiving resolution plans as the CD is a closed concern without any tangible asset (except bank balance of Rs.43,735.99), long outstanding book debts and non-existence of any employee in the payroll, while exercising their commercial wisdom."*

13. Taking into consideration of extension of 90 days, the 270 days CIRP period had expired on 23/10/2022.

14. The Resolution Professional under regulation 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 has duly filed by way of a supplementary affidavit Compliance Certificate[11] in Form H, which was duly affirmed by the RP on 24/11/2022.

15. The Resolution Professional in compliance of sub-section (1) of section 34 of the Insolvency and Bankruptcy Code, 2016 has duly submitted his Written Consent[12] along with Authorisation for Assignment to Act as Liquidator of

[9] Annexure "J" at pages 140 to 141 of the application
[10] Annexure "K" at pages 142 to 147of the application
[11] Annexure "N" at pages 4 to 7 of the of the supplementary affidavit affirmed on 24/11/2022
[12] Annexure "O" at pages 160 to 162 of the application

the Corporate Debtor.

16. Section 33(1)(a) of the Code mandates that the Adjudicating Authority shall pass an order of liquidation where no resolution plan is received before the expiry of the CIRP. Sub-section (2) thereof requires the Adjudicating Authority to pass the liquidation order where the Resolution Professional intimates to the Adjudicating Authority the decision of the Committee of Creditors approved by not less than 66% of the voting share to liquidate the Corporate Debtor.

17. A conjoint reading of these two provisions leaves this Adjudicating Authority with no other option but to order liquidation of the Corporate Debtor.

18. This Bench, therefore, hereby orders as follows: -

a. IA(IBC)/1360(KB)2022 filed by **Mr. Pratap Mukherjee, RP** of **Radission Resources Private Limited**, the Corporate Debtor, is allowed. Consequently, the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;

b. **Mr. Pratap Mukherjee, RP [Reg. No. IBBI/IPA-001/IP-P02515/2021-2022/13851] of 27A, Bhattacharjee Para Road, Paschim Barisha, Kolkata 700063, having e-mail i.d. pratapmukherjee62@gmail.com, telephone nos. 9433169214 and 9674795648** is hereby appointed as Liquidator as provided under section 34(1) of the Code, subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019.

c. The Liquidator shall initiate liquidation process as envisaged under

Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, i.e., in "*Morning India*" (English) and "*Sanmarg*" (Hindi), Ranchi Edition stating that the Corporate Debtor is in liquidation.

e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.

f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

g. On initiation of the liquidation process but 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, as provided in section 33(5) of the Code read with its proviso.

h. In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a 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.

i. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the **Registrar of Companies, Jharkhand**, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the **Registrar of Companies, Jharkhand.**

19. The application bearing **IA(IBC)/1360(KB)2022** shall stand disposed of in accordance with the above directions.

20. **CP(IB)/1147(KB)2020** is to come up for filing of periodical progress report on **20/04/2023.**

21. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.

22. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Balraj Joshi
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Signed on this, the 23rd day of March, 2023.

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