

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH

MA No. 1596/2018  
In  
C. P. 1104/I&B/2017

Under Section 33 of Insolvency &  
Bankruptcy Code, 2016  
In the matter of  
Antrix Diamond Exports Pvt. Ltd.  
.... Corporate Debtor

M.A. No. 1596/2018  
Mr. Ram Ratan Kanoongo  
... Applicant/  
Resolution Professional

Order delivered on: 20.09.2019

Coram: Hon'ble Shri Bhaskara Pantula Mohan, Member (Judicial)  
Hon'ble Shri Shyam Babu Gautam, Member (Technical)

For the Applicant: Mrs. Khushboo Shah Rajani, Advocates, a/w.

CA Mr. Ayush J. Rajani i/b. AKR Advisors LLP for the  
Resolution Professional and Mr. Ram Ratan Kanoongo,  
Applicant/ Resolution Professional-in-person



Per Shri Bhaskara Pantula Mohan, Member (Judicial)

**ORDER**

1. The Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor by an order dated 27.03.2018 of this Adjudicating Authority on a Section 10 Petition filed by the Corporate Debtor, wherein Mr. Ram Ratan Kanoongo, was appointed as Interim Resolution Professional (IRP). Thereafter on 19.05.2018 in the 2<sup>nd</sup> Committee of Creditors (CoC) meeting Mr. Ram Ratan Kanoongo was resolved to be appointed as Resolution Professional (RP) and the same was approved by this Bench.

2. The RP submits that the public announcement was made on 04.04.2018 fixing 16.04.2018 as the last date for submitting the claim in three newspapers "The Economics Times, Business Standard (both in Mumbai & Ahmedabad) and in Sandesh ((Mumbai & Surat). Subsequently the RP constituted the Committee of Creditors (CoC).

3. The RP submits that in the 3<sup>rd</sup> CoC held on 02.07.2018, two registered valuers were appointed as required under Regulation 27 of the IBBI (IRP for Corporate Persons) Regulations, 2016 and the Information Memorandum was prepared as provided under Regulation 36(1) of the said regulation. It is further submitted that an advertisement was issued, inviting Expression of Interest in Form G in "Economics Times" (Mumbai & Ahmedabad), "Business Standard" (All edition) and "Gujarat Samachar" (Mumbai & Ahmedabad) on 05.07.2018, fixing 01.08.2018 as last date for submission of Expression of Interest by the Prospective Resolution Applicants and thereafter, the time was extended and Form G was issued on 04.08.2018 giving last date up to 18.08.2018.

4. The Resolution Professional submits that only one expression of interest was received from Prospective Resolution Applicant Mr. Ajay Gandhi, Promoter and Director of the Corporate Debtor (suspended under IBC 2016) as per section 29A and Section 240A of the code.

5. The RP submits that a resolution plan was received from Mr. Ajay Gandhi in response to expression of interest received by RP. The said Mr. Ajay Gandhi, is the Promoter and Director of the Corporate Debtor and submitted documents for the proving that he is eligible to present the resolution plan pursuant to Section 240A of the Code, which provides that the provisions of classes (c) and (h) of Section 29A shall not apply to the corporate insolvency resolution process of any micro, small and medium enterprises.

6. The CoC in their 6<sup>th</sup> meeting held on 04.09.2018, that only one resolution plan was submitted, by Mr. Ajay Gandhi, and since there was not enough time to consider Resolution plan and in the view of the fact that the last date of the CIRP was 23.09.2018, therefore, CIRP period was extended by 90 days for e-voting. Thereafter Resolution plan was kept for e-voting which commenced on 14.12.2018 at 6:00 P.M. Considering the last date to conclude the CIRP i.e. 22.12.2018 (270<sup>th</sup> day). The said e-voting concluded on 18.12.2018 at 6:00 P.M.

7. The Resolution Professional submits that the CoC in their 10<sup>th</sup> meeting held on 11.12.2018, casted their votes on the Resolution Plan and the same was rejected for the reason that it is not in the best interest of the Corporate Debtor. The proposed resolution plan failed to receive a vote of sixty six percent, therefore, the CoC decided to liquidate the Corporate Debtor as provided u/s 33 of the Insolvency & Bankruptcy Code, 2016 (Code). Hence, this application, was filed.

8. The Applicant/ Resolution Professional Mr. Ram Ratan Kanoogo, has agreed to act as liquidator to carry on the process of liquidation and given his consent to act as Liquidator.

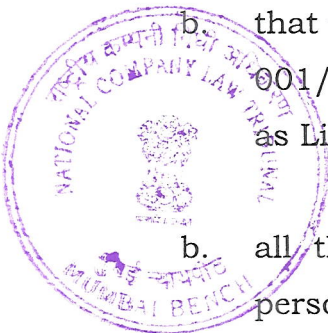
9. On hearing the submissions of the Applicant and on reading the Application and the documents enclosed therein, the RP has complied with the procedure laid down under the Code read with Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (Regulations), for the valuation report filed by the valuer has not been disputed by the CoC, on verification, we are of the view that this case is fit to pass liquidation order under sub-section 1 of section 33 of the Code as no resolution plan has been approved by the Adjudicating Authority and accordingly, this Bench orders;

a. that the Corporate Debtor to be liquidated in the manner as laid down in the Chapter 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 the Mr. Ram Ratan Kanoongo, Registration No. IBBI/IPA-001/IP-P00070/2017-18/10156, herein is hereby appointed as Liquidator as provided under Section 34(1) of the Code.

b. 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. 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.
10. Consequently, as stated supra, Resolution Professional is appointed as the Liquidator as provided under section 34(1) of the Code. 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 with the liquidator.
  11. 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/-  
**SHYAM BABU GAUTAM**  
**MEMBER (TECHNICAL)**



Sd/-  
**BHASKARA PANTULA MOHAN**  
**MEMBER (JUDICIAL)**

**Certified True Copy**  
**Copy Issued "free"**  
 On 23/9/19

*[Signature]*  
**Assistant Registrar**  
**National Company Law Tribunal, Mumbai Bench**