

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

IA No. 307/KB/2021
in
CP (IB) No. 37/KB/2019

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

In the matter of

Shri Sanjay Agarwal, Partner of Sri Laxmi Agro Products

...Operational Creditor

Versus

GM Agro Allied Private Limited
(CIN: U01403WB2012PTC173737)

...Corporate Debtor

And

In the matter of

Shri Sachin Gopal Jathar
RP of GM Agro Allied Private Limited

... Applicant

Order reserved on: 15/04/2021

Order pronounced on: 15/04/2021

Coram:

Shri Rajasekhar V.K. : Member (Judicial)

Shri Harish Chander Suri : Member (Technical)

Appearances (through video conferencing):

For the Applicant : Mr Arun Gupta, PCS
Mr. Sachin Gopal Jathar, RP

For respondent in IA 1261(KB)2020 : Mr. Saptarshi Banerjee,
Advocate

ORDER

Per: Rajasekhar V.K., Member (Judicial)

1. This court convened *via* video conference today.
2. This is an application filed by the Resolution Professional seeking liquidation of the Corporate Debtor, *viz.*, GM Agro Allied Private Limited [CIN: U01403WB2012PTC173737], on the ground that the no Resolution Plan received by him in spite of publication of **Form G** twice.
3. This Adjudicating Authority *vide* its order dated 08/11/2019 on a Petition filed by Shri Sanjay Agarwal, partner of Sri Laxmi Agro Products (*operational creditor*) under section 9 of the Insolvency and Bankruptcy Code, 2016 (*'the Code'*) directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor and appointed Mr. Ajay Kumar Agarwal as the Interim Resolution Professional (IRP). Later *vide* order dated 23/01/2020 Shri Sachin Gopal Jathar was appointed as Resolution Professional (RP). The orders dated 08/11/2019 and 23/01/2020

along with the Master Data of the Corporate Debtor are annexed with the application as **Annexure – A (colly)**.

4. In terms of section 15 of the Code, public announcement in Form 'A' was made on 10/11/2019 in "Financial Express" (English) and "Dainik Statesman" (Bengali). CoC was constituted with sole member Union Bank of India (erstwhile Corporation Bank) being the Financial Creditor. Copy of the Public Announcement and the Final List of Creditors is annexed with the application as **Annexure – B (colly) and Annexure – C** respectively.
5. CoC was duly constituted and the first meeting of CoC was held on 10/11/2019, wherein the IRP had proposed the name of Mr. Sachin Gopal Jathar to be appointed as the RP and the members of the CoC unanimously passed resolution for the same. Vide order dated 23/01/2020 Shri Sachin Gopal Jathar was appointed as Resolution Professional (RP). Copy of the minutes along with the voting result is annexed with the application as **Annexure – D**.
6. Upon approval from the CoC, invitation for EoI was published in Form 'G' on 22/01/2020 in "*Business Standard*" (English) and "*Dainik Statesman*" (Bengali) and the last date of submission of EoI was on 06/02/2020. However, no EoI was received in response to the invitation published. Copy of the minutes of the 3rd CoC meeting and copy of Form G as published by the IRP are annexed with the application as **Annexure – F and Annexure – G** respectively.

7. The applicant duly conducted 4th, 5th, 6th, 7th, 8th, 9th and 10th CoC meetings respectively on 08/07/2020, 13/11/2020, 20/11/2020, 24/11/2020, 24/12/2020, 04/02/2021 and 22/02/2021, copies whereof are annexed with the application as **Annexure – H, Annexure – I, Annexure – J, Annexure – K, Annexure – M, Annexure – O** and **Annexure – Q** respectively.
8. Ld. Authorised Representative for the RP submits that at the 8th CoC meeting held on 24/12/2020, the CoC felt that Form G should be republished and accordingly the same was republished in “*Business Standard*” (English) and “*Ek Din*” (Bengali) on 26/12/2020 and the last date of submission was on 10/01/2021 but no EoI was received from any prospective resolution applicant.
9. An application u/s. 19(2) of the Insolvency and Bankruptcy Code, 2016 has been filed before this Adjudicating Authority which was heard on 07/12/2020 when this Adjudicating Authority has duly passed necessary orders.
10. Ld. Authorised Representative for the RP submits that at the 10th CoC meeting held on 22/02/2021 the CoC has decided to liquidate the Corporate Debtor and passed a resolution unanimously for liquidation of the Corporate Debtor. Members of the CoC requested the RP to continue as the Liquidator in this matter and they confirmed that the fee as Liquidator would be as prescribed under regulation 4 of the IBBI (Liquidation Process) Regulations, 2016.

11. The RP has consented to act as Liquidator and his consent letter is annexed with the application as **Annexure P**.
12. Applicant has annexed Form – H as compliance certificate of CIRP of the Corporate Debtor and the same is annexed with the application as **Annexure – R**.
13. *Vide* order dated 24/12/2020 this Adjudicating Authority had granted exclusion of lockdown period from 24/03/2020 to 15/10/2020 on account of COVID-19 pandemic as well as extension of CIRP period by a further period of 90 days w.e.f. 28/11/2020 thereby the CIRP period has come to an end on 25/02/2021.
14. We have considered the submission made by the Ld. Authorised Representative for the Resolution Professional, the applicant herein, and perused the record.
15. This is a case where no Resolution Plan has been received in spite of publication of Form G twice and there is no Resolution Plan for consideration of the CoC. The extended period of CIRP has expired on 25/02/2021. Therefore, there is no alternative but to order the liquidation of the Corporate Debtor.
16. This Bench, therefore, hereby orders as follows: -
 - a. IA No. 307/KB/2021 filed by Mr Sachin Gopal Jathar, RP of **GM Agro Allied Private Limited**, the Corporate Debtor, is allowed and 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. Sachin Gopal Jathar [Reg. No. IBBI/IPA-002/IP-N00640/2018-2019/11968], 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.*, “*Business Standard*” (English) and “*Dainik Statesman*” (Bengali) of Kolkata edition of the said newspapers 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, West Bengal, Kolkata, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.
17. The application bearing **IA No. 307/KB/2021** shall stand disposed of in accordance with the above directions.
18. **CP (IB) No. 37/KB/2019** to come up for filing of periodical report on **16/07/2021**.
19. 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.

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

Harish Chander Suri
Member (Technical)

Rajasekhar V.K.
Member (Judicial)

Signed on this, the 15th day of April, 2021.

hb.

DIVISION BENCH

O-125

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

C.P. (IB)/37(KB)2019

IA/1261(KB)2020

IA/307(KB)2021

Present: 1. Hon'ble Member(J), Shri Rajasekhar V.K.

2. Hon'ble Member(T), Shri Harish Chander Suri

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 15th April, 2021, 10:30 A.M

Name of the Company	LAXMI AGRO PRODUCTS Vs. GM ARRO ALLIED PVT LTD		
Under Section	IBC Under Sec 9 (CIRP)		
Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date

Appearances (via video conference)

For the RP

Mr. Arun Gupta, Pr. CS
Mr. Sachin Gopal Jathar, RP

For Respondent in IA 1261(KB2020)

Mr. Saptarshi Banerjee, Advocate

ORDER

1. Mr. Arun Gupta, Ld. Authorised Representative for the Resolution Professional present. Mr. Saptarshi Banerjee, Ld. Counsel for respondents in IA No. 1261(KB)2020 present.

2. IA/307(KB)2021 is allowed through separate order.

Harish Chander Suri
Member (Technical)

Rajasekhar V.K.
Member (Judicial)

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