THE NATIONAL COMPANY LAW TRIBUNAL
COURT V, NEW DELHI
I.A. 4956/2020
IN
Company Petition No. (IB) – 1790 (ND) /2019

Under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 for liquidation of the corporate debtor

In the matter of:

M/s. UCO Bank

.... PETITIONER/
FINANCIAL CREDITOR

VERSUS

M/s. SASI POWER PVT. LTD.

..... CORPORATE DEBTOR

In the matter of:

PANKAJ KHETAN

.... Applicant (RP)

Order Pronounced on : 13.04.2022

CORAM:
SHRI. ABNI RANJAN KUMAR SINHA,
HON'BLE MEMBER (JUDICIAL)
SHRI. HEMANT KUMAR SARANGI,
HON'BLE MEMBER (TECHNICAL)

For the Applicant : Mr.Pankaj Khetan, R.P.

ORDER

PER- HEMANT KUMAR SARANGI, MEMBER (TECHNICAL)

1. This is an application filed by the Resolution Professional, under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for issuance of directions for liquidation to Corporate Debtor, M/s. Sasi Power Private Limited.

2. The facts in brief are that one of the Financial Creditors, M/s. UCO Bank, had filed an application under Section 7 of the Code, bearing number IB- 1790(PB)/2019, for initiation of Corporate Insolvency Resolution Process (CIRP), against the Corporate Debtor. The said application was admitted by this Tribunal on 29.01.2019, thereby initiating CIRP against the Corporate Debtor and therein, appointed Mr. Pankaj Khetan, as the Interim Resolution Professional (IRP).

3. Thereafter, the RP had issued public announcement in Form-A, which was published in 'Business Standard' (English) and 'Business Standard' (Hindi), both NCR editions, on 31.01.2020, calling on the creditors to submit their claims along with proofs. On receipt of claims and their verification and collation, the Committee of Creditors (CoC), was constituted by the Applicant.

4. The Applicant called the first CoC meeting on 27.02.2020, in the said meeting the only member of CoC was M/s. UCO Bank, with 100% voting rights. It was decided and resolved by the CoC for the appointment of the applicant, Mr. Pankaj Khetan, as the RP.

5. The RP informed the CoC that as mandated by Regulation 27 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process of Corporate Debtor) Regulations, 2016, the following had been appointed to conduct the valuation of the assets of the Corporate Debtor:

Name of the Valuer	**Class of Assets**
Mr. Sushil Kumar Singhal	Land & Building
Mr. Dhiraj Jaiswal	Land & Building
Mr. Hardev Singh	Financial Assets
Mr. Naveen Singal	Financial Assets
Mr. Brahm Pal Bhardwaj	Plant & Machinery
Mr. Naresh Kumar	Plant & Machinery

6. The Applicant states that on 14.07.2020 the Applicant filed an Application, under Section 60(5)(c) of the I & B Code, 2016, read with Regulation 40C of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, for exclusion of time period of Lockdown, as imposed by the Central Government, in the wake of Covid-19, from the prescribed CIRP period of 180 days. The same was allowed by Hon'ble NCLT, New Delhi and an exemption of Lock down period starting from 25.03.2020 to 30.06.2020, was granted. Also, an extension of CIRP period upto 05.11.2020 was granted.

7. That in the second CoC meeting, held on 24.06.2020, a resolution was passed to issue Form-G, the same was published

on 06.07.2020. The last day for the receipt of Expression of Interest (EoI), was fixed for 22.07.2020. The Applicant received the EoI from Prospective Resolution Applicant (PRA) and issued the provisional & Final list of PRA, on 24.07.2020 and 04.08.2020, respectively.Further, the last date for submission of Resolution Plan in the matter was 01.09.2020 but none of the PRA's had submitted their plan in the matter.

8. Applicant proposed the Resolution for extension of CIRP period under Section 12 of the I & B Code, 2016, along with republication of Form G for calling EoI, but the members of CoC rejected both the Resolutions with 100% voting rights. Further, in the fourth meeting of CoC, held on 26.10.2020, the members of CoC passed a resolution for liquidation of the Corporate Debtor under section 33 of IBC, 2016. The Resolution was passed unanimously by the members of CoC present and voting. Following resolutions were passed:

> ***"RESOLVED THAT*** *in pursuant to the Provisions of Section 33 of Insolvency and Bankruptcy Code, the consent of the members of Committee of Creditor(s) be and is hereby accorded to Liquidate the Corporate Debtor.*
>
> ***FURTHER RESOLVED THAT*** *the Resolution Professional and is hereby authorized to file an application and to do such other acts and deed as he may deem necessary in pursuance to IBC, 2016 and relevant Regulations."*

That both of the above mentioned resolutions were approved unanimously by the members of CoC present and voting.

9. In view of the above portion we hereby allow the application by ordering liquidation of the corporate debtor, namely M/s. Sasi Power Private Limited with following directions:

   a. That Mr. Pankaj Khetan, the Resolution Professional of the Corporate Debtor, is relieved from the present assignment as Resolution Professional.

   b. That it has been seen from the record that Mr. Pankaj Khetan has withdrawn his consent to act as Liquidator in the fourth meeting of CoC, dated 26.10.2020. However, there is no Resolution and corresponding voting sheet annexed along with the present Application for appointment of the Liquidator.

   c. Therefore, this bench, hereby appoints, Mr.Tarun Jain, holding Registration No. IBBI/IPA-002/IP-N00187/2017-2018/10504, as the Liquidator in terms of Section 34(4)(c) of the Code;

   d. The Liquidator is directed to file his consent to act as Liquidator in the specified Form in compliance with Section 34(1) of the code;

   e. Registry is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;

f. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;

g. This order shall be deemed to be notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;

h. The Liquidator is directed to proceed with the process of liquidation in the manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant rules and regulations.

i. The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.

j. The liquidator shall also follow up the pending applications for their disposal during the process of liquidation, including initiation of steps for recovery of dues of the Corporate Debtor as per law.

k. The Liquidator shall submit Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016;

l. Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator for taking necessary steps;

m. I.A. 4956 (ND)/2020 filed in IB- 1790 (ND)/2019 is **allowed** in terms of the aforesaid order.

Let a copy of order be served to parties

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(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)

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(ABNI RANJAN KUMAR SINHA)
MEMBER (JUDICIAL)