

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

**MA/465/2019
IN
CP/715/IB/CB/2017**

Application filed under sections 33(2) and 60(5) of the IBC, 2016

In the matter of M/s. Dream Systems Private Limited

M/s. RKTC Logistics Private Limited

--- Applicant/FC

Vs

Mr. C. Ramasubramaniam, RP

For M/s. Dream Systems Private Limited

---Respondent

Order delivered on: 30.07.2019

CORAM:

B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Applicant : *Mr. Rohan Rajasekaran, Advocate*

For the Respondent : *Shri. C. Ramasubramaniam, RP*

ORDER

Per: B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

Heard and dictated in the open court on 25.07.2019

It is an MA filed u/s 33(2) and 60(5) of the Insolvency & Bankruptcy Code, 2016 ("the Code") by the Financial Creditor

(Applicant) of M/s. Dream Systems Private Limited (Corporate Debtor) seeking liquidation of the Corporate Debtor. The sole Financial Creditor stating that since the Company could not pass any resolution during the CIRP and 180 days being over, thereafter no extension has been sought by the RP because already one year has passed after passing the admission order on 02.04.2018. When we have asked the RP present before this Bench as to whether registered valuers have been appointed as contemplated under the Code, he has made it clear that no asset is lying in the company, therefore, no occasion arose to appoint the registered valuers for ascertaining the liquidation value of the Corporate Debtor.

2. As no asset is lying in the company as stated by the RP and no Information memorandum has also been prepared by the RP, the CIRP period also being expired without approval of the Resolution Plan, the applicant has sought for liquidation of the Corporate Debtor. The Resolution Professional as respondent, since has expressed his unwillingness to continue as RP or liquidator in this case, the

applicant has obtained the consent of Mr. K. Suresh to act as the liquidator of the Corporate Debtor.

3. Since this Corporate Debtor has no asset to sell, for there being discretion to this Adjudicating Authority u/s 34(4) of the Code to replace the RP unwilling to continue with an Insolvency Professional given consent to act as Liquidator, and this Applicant having itself obtained the consent of the Insolvency Professional, this bench hereby appoints Mr. K. Suresh as liquidator u/s 34 (4) of the Code.

4. Looking at the facts available before this Bench, we are of the view that this case is fit for liquidation, therefore liquidation of the Corporate Debtor is hereby ordered with the following directions:

- a) This Bench hereby orders the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing a public notice stating that the Corporate Debtor is in liquidation with a direction to the liquidator to send this order to ROC with which this company has been registered.

b) Mr. K. Suresh is hereby appointed to act as Liquidator for the purpose of liquidation of the Corporate Debtor, therefore all powers of the board of directors, Key managerial personnel and partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be hereby vested in the liquidator. The Personnel of the Corporate Debtor are directed to extend all co-operations to the liquidator as may be required in managing the affairs of the Corporate Debtor. The Insolvency Professional appointed as liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified under regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under section 53 of the Code.

c) Since this liquidation order has been passed, no suit or other legal proceedings shall be instituted by or against the



Corporate debtor without prior approval of this Adjudicating Authority save and except as mentioned in sub-section 6 of section 33 of the Code.

d) This liquidation order shall be deemed to be notice of discharge to the officers, employees and workmen of the Corporate Debtor except to extent of the business of the Corporate Debtor is continued during the liquidation process by the by the Liquidator.

e) The liquidator is directed to carry the functions of the Liquidator as envisaged under the Insolvency and Bankruptcy Code, 2016 and also Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

5. Accordingly, this MA/465/2019 filed in CP/715/IB/CB/2017 is hereby allowed.

-Sd-
(S. VIJAYARAGHAVAN)
Member (Technical)

-Sd-
(B. S.V. PRAKASH KUMAR)
Member (Judicial)

VS/TJS