

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI
COURT – I

C.P. (IB) 1647/(MB)/2019
MA 374/2020

CORAM: SHRI BHASKARA PANTULA MOHAN
MEMBER (J)
SHRI V. NALLASENAPATHI
MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 12.03.2020

NAME OF THE PARTIES: Corporation Bank
V/s
Tasgaonkar Blossom Private Limited.

Section 7 of the Insolvency and Bankruptcy Code, 2016.

ORDER

28. MA 374/2020 In C.P. (IB) 1647/(MB)/2019

MA 374/2020: -

This is an application filed by the Resolution Professional under section 33 of the Code seeking liquidation of the corporate debtor based on the Resolution of the CoC approving the liquidation of the corporate debtor with 100% of voting of the CoC.

The Counsel for the applicant-Resolution Professional submits that : - CIRP of the corporate debtor was commenced on 19.08.2019 by admission of the petition; Interim Resolution Professional taken control of the corporate debtor on 26.08.2019; public announcement in form A inviting claims was issued; the CoC was formed; in the first CoC meeting on 20.09.2019 the IRP was confirmed as RP; valuation report were received on 19.11.2019; Expression of Interest (EoI) was published on 14.11.2019; since no Expression of Interest

was received the CoC on 10.12.2019 unanimously resolved to liquidate the corporate debtor; the CoC decided to appoint the present RP as the liquidator at a fee of 80% of the fees prescribed under Regulation 4 (2) (b) of IBBI (Liquidation Process) Regulation, 2016 plus out of pocket expense; and hence this application.

Section 33 (2) of the code provides that where the Resolution Professional, at any time during the CIRP but before confirmation of the resolution plan, intimates the adjudicating authority of the decision of the CoC (approved by not less than 66% of the voting share) to liquidate the corporate debtor, adjudicating authority shall pass the liquidation order.

In view of the above provision and since there is no resolution plan, this application is allowed and this Bench orders:

- a. that the Corporate Debtor be liquidated in the manner as laid down in the Chapter III of the Code 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 Mr. Mahesh Sureka, Resolution Professional herein is appointed as Liquidator as provided under Section 34(1) of the Code.
- c. that 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 80% of the fees prescribed under Regulation 4 (2) (b) of IBBI (Liquidation Process) Regulation, 2016 plus out of pocket expense.
- 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. that this liquidation order shall be deemed to be 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.

Sd/-

V. NALLASENAPATHI
Member (Technical)

Sd/-

BHASKARA PANTULA MOHAN
Member (Judicial)