

NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH - I
CHENNAI

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ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD AT 2.00 PM ON 27-1-2020

PRESENT: SHRI R. VARADHARAJAN, MEMBER-JUDICIAL
SHRI ANIL KUMAR B, MEMBER - TECHNICAL

APPLICATION NUMBER : MA/1418/2019 IN
PETITION NUMBER : CP/1216/IB/2018
NAME OF THE PETITIONER(S) : MAHALINGAM SURESH KUMAR (RP) (SHREE
VAISHNO DEVI MILLS PVT LTD)
NAME OF THE RESPONDENTS :
UNDER SECTION : A SEC 33(1)(A), 33(2) & 34(1) OF IBC

S.No. NAME (IN CAPITAL) DESIGNATION SIGNATURE
REPRESENTATION BY WHOM

1 M. SURESH KUMAR

Reseller Professor



2. A. C. Sathyanarayana

Ex Applicant

M. Sathyanarayana

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

MA/1418/2019 in
CP/1216/IB/2018 filed
under *Sections* 33 (1)
(a), 33 (2) & 34 (1) of
the Insolvency and
Bankruptcy Code, 2016

In the matter of ***M/s. Shree Vaishno Devi Mills Private Ltd.***

MAHALINGAM SURESH KUMAR,
Resolution Professional of
M/s. Shree Vaishno Devi Mills Private Limited,
M/s. SPP & Co., Chartered Accountants,
No. 27/9, Nevedh Vikas, Pankaja Mill Road,
Puliyakulam, Coimbatore-641 045

... Applicant /Resolution Professional

CORAM :

R. VARADHARAJAN, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)

For Applicant : A.G. Sathyanarayana, Counsel
:M. Suresh Kumar, Resolution Professional

ORDER

***Per:* R. VARADHARAJAN, MEMBER (JUDICIAL)**

Heard and dictated in open Court on 27.01.2020

1. This is an Application moved under Section 33(1)(a) & 33(2) read with attendant provisions of the Insolvency and Bankruptcy Code, 2016 ("IBC, 2016") by the Resolution Professional ("RP") seeking for the liquidation of the Corporate Debtor in view of the resolution passed by the CoC comprising of


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the sole member viz., M/s. Stressed Assets Stabilization Fund ("SASF") in its 3rd meeting held on 23.11.2019. The Counsel for the Liquidator represents that the Corporate Insolvency Resolution Process ("CIRP") was initiated on 22.07.2019 and public announcement calling for the claims were made on 24.07.2019 and the only claim staked before the IRP in the capacity of sole Financial Creditor was SASF.

2. The CoC was constituted on 13.08.2019 and in the 1st CoC meeting held on 20.08.2019 decided the IRP appointed by this Tribunal to be the RP i.e., the Applicant. Pursuant to the same, the Valuers were appointed on 28.08.2019 in order to ascertain the fair and the liquidation value of the Corporate Debtor and it is brought to the notice of this Tribunal by the Counsel for the Applicant that the fair value which has been arrived is to the extent of Rs.15,69,11,527/- and the liquidation value is to the extent of Rs.12,66,90,251/- as reflected at page No.41 of the petition. Even though the Expression of Interest ("EOI") was invited, however, no EOIs were received. In the circumstances, the above Resolution was passed by the CoC seeking for the liquidation of the Corporate Debtor even prior to the expiry of the CIRP period which expired only on 18.01.2020.

3. It is further pointed out by the Counsel for the Applicant that in all the three CoC meetings held, no Resolution Plan was





coming through, hence the instant application has been filed and the Counsel for the Applicant also has brought to the notice of this Tribunal that in the copy of the minutes of the 3rd CoC meeting held on 23.11.2019, the CoC has expressed its willingness to continue the RP as the Liquidator of the Corporate Debtor and in terms of Regulation 4(2)(3) of the IBBI (Liquidation Process) Regulations, 2016, the fees which is payable to the Liquidator shall be based on the fixed percentage and on the realization or distribution as provided under the said Regulations pegged to the extent of percentage of realization from liquidation estate and to the extent of percentage of distribution of the liquidation process.

4. Further, the counsel for the Applicant has brought to the notice of this Tribunal that pursuant to the resolution passed by the CoC on 23.11.2019, a written consent along with application has also been enclosed by the RP/Proposed Liquidator/Applicant in Form AA dated 21.11.2019 wherein it is seen that the Proposed Liquidator is handling liquidation of seven cases. In the circumstances, a query was posed by this Tribunal to the RP who was present in person as to whether he would be in a position to handle in addition, the present liquidation as well. It is represented by the RP that already in relation to four liquidation process, the same has been completed and out of the



four resolution applications, only three applications were received and presently three resolution cases were being handled by the RP/Proposed Liquidator. It is further represented by the Liquidator/RP upon a query posed by this Tribunal as to how the disposal of assets has taken place in relation to other matters handled by the RP, it was represented that the same has been done only through e-auction and the proceeds arising out of have been distributed to the concerned creditors thereunder.

5. In the circumstances, in the absence of any resolution plan filed before this Tribunal and also taking into consideration the provisions of Section 33 of IBC, 2016, this Tribunal pass this order for liquidation of the Corporate Debtor as from this day. This Tribunal also appoints **CA. Mahalignam Suresh Kumar [Regn. No.IBBI/IPA-001/IP-P00110/2017-18/10217]** as the Liquidator to carryout the liquidation process of the Corporate Debtor subject to the following terms of the directions :

- a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended upto date enjoined upon him.



- b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.
- c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority.
- d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and to the Insolvency and Bankruptcy Board of India;
- e) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory authorities which governs the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.



- f) The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence.
- g) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016.
- h) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section – 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.
- i) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further report as required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.



j) Copy of this order be sent to the Financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor, viz., company-in-liquidation.

6. The application stands **disposed of** with the aforesaid terms.

-SD-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-SD-
(R.VARADHARAJAN)
MEMBER (JUDICIAL)

vs