IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH

I.A.No.419 of 2020 in
C.P.(IB)No.381/BB/2019
U/s. 33(2) of the IBC, 2016

Ms. Shirley Mathew
Resolution Professional of
M/s. Bob Tech Solutions Pvt. Ltd.
R/Off: II & III, 3rd Floor, No.13,
100 Foot Ring Road, J.P. Nagar,
6th Phase, Above Federal Bank,
Opp. Shell
Bangalore – 560 078. - Applicant/ RP

Date of Order: 02nd February, 2021

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)

2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present:

For the Applicant/RP : Ms. Maitreyi Bhat, Adv.

ORDER

Per: Ashutosh Chandra, Member (Technical)

1. I.A.No.419 of 2020 in C.P.(IB)No.381/BB/2019 is filed by Ms. Shirley Mathew, Resolution Professional of M/s. Bob Tech Solutions Private Limited ('the Applicant/Resolution Professional') under Section 33(2) of the IBC, 2016, by inter alia seeking to pass an order for liquidation of the Corporate Debtor in terms of Section 33(2) of the IBC, 2016, pass an order appointing the Applicant as the Liquidator of the Corporate Debtor, etc.

2. Brief facts of the case, as mentioned in the Application, which are relevant to the issue in question, are as follows:

   (1) Initially CP(IB)No.381/BB/2019 is filed by Mr. Arun Kumar K ('Petitioner/Operational Creditor') under Section 9 of the IBC, 2016, R/w Rule 6 of I&B (AAA) Rules, 2016 for the initiation of CIRP against the Corporate Debtor and the same was admitted vide our order dated

07.02.2020 appointing Mr. Surender Devasani, as IRP for imposing moratorium, etc.

(2) Accordingly, the IRP made a public announcement dated 11.02.2020 in the prescribed form about the commencement of CIRP of the Corporate Debtor in accordance with the provisions of Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016. Claims were invited by public announcement and the last date for submission of claims was 25.02.2020. Taking the aforesaid into account, the said IRP constituted the Committee of Creditors as per the provisions of Section 21 of the Code.

(3) The First meeting of the CoC of the Corporate Debtor was held on 04.03.2020. Thereafter on account of the Covid-19 pandemic, the Government of India announced a nationwide lockdown w.e.f. 25.03.2020, by way of an order dated 24.03.2020 issued by the Home Ministry of India and bearing number 40-3/2020-DM-I(A). This lockdown was subsequently extended till 03.05.2020 by way of an order dated 15.04.2020 issued by the Ministry of Home Affairs, Government of India. The lockdown was further extended till 17.05.2020 by way of an order dated 01.05.2020 issued by the Ministry of Home Affairs, Government of India. Thereafter, by way of an order dated 17.05.2020 issued by the Ministry of Home Affairs, Government of India, the lockdown was extended till 31.05.2020.

(4) It is stated that at the end of the lockdown period on 29.05.2020 the 2nd meeting of the Committee of Creditors was held, where inter alia it was resolved to appoint the Applicant as the Resolution Professional of the Corporate Debtor. The Tribunal by way of an order dated 27.07.2020 appointed the Applicant as the Resolution Professional of the Corporate Debtor.

(5) Due to outbreak of the Covid-19 pandemic and the consequent Central and State Government lockdowns, the CIRP of the Corporate Debtor was halted and came to a total standstill. In view of the lockdown and associated restrictions imposed by the Central and State Government the erstwhile IRP and the Applicant RP were precluded from effectively performing their duties in conducting the CIRP of the Corporate Debtor.

The time period of 180 days as per Section 12 of the Code, within which to complete the CIRP of the Corporate Debtor expired on 05.08.2020. An interlocutory application seeking exclusion of time under Section 40 C of the IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016 has been filed as I.A No.385 of 2020 and the same was reserved for orders and disposed of on 16.09.2020.

(6) Thereafter, on 11.09.2020, the 3rd meeting of the CoC was convened where it was inter alia resolved to liquidate, and seek permission for liquidation of the Corporate Debtor from this Tribunal which reads are under:

> *RESOLVED THAT, pursuant to Section 33(2) of Insolvency Bankruptcy Code, 2016 and amendments thereof including the Regulations made there under, the approval of the CoC of Bob Tech Solutions Private Limited be and is hereby accorded to the liquidation of the Corporate Debtor subject to the approval of the Hon'ble NCLT, Bengaluru.*
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> *FURTHER RESOLVED THAT, the Resolution Professional of the Corporate Debtor, Ms. Shirley Mathew (IBBI Registration No.IBBI/IPA/001/IP-P01043/2017-18/11716) subject to submission of the written consent form and approval of Hon'ble NCLT, be and is hereby appointed as the Liquidator for the said liquidation process for the remuneration of Rs.50,000/- plus GST & OPE per month from the date of appointment as a Liquidator till the completion of liquidation process & Dissolution of the Company.*

(7) It is stated that the Applicant has taken charge of the Corporate Debtor. Union Bank of India (erstwhile Corporation Bank) has submitted a claim of which Rs.3,72,70,996/- has been provisionally accepted, subject to verification. Four Operational Creditors have filed a claims totally amounting to Rs. 1,63,54,028 out of which Rs.64,99,514/- has been provisionally accepted. There are claims totalling to Rs.87,48,836 from 40 employees, out of which Rs. 62,36,440 has been admitted.

(8) The total liabilities of the Corporate Debtor as per the balance sheet dated 07.02.2020 is Rs.14,25,35,404/-. Subject to verification claims amounting to Rs. 5,43,35,864/- have been provisionally admitted. In the said balance sheet the value of the total assets is Rs.1,31,89,636/-.

(9) A brief summary for the reasons for decline in the operations was prepared by the Applicant along with the Suspended Board of Directors and circulated along with the notice for the meeting. The CoC, after assessing the financial position of the Corporate Debtor, came to the conclusion that there were no disposable assets available with the Corporate Debtor and the same was hardly significant and that the debtors also had a negligent chance of recovery. Thus a resolution was passed to liquidate the Corporate Debtor at the meeting dated 11.09.2020.

(10) Further, in the said 3rd meeting, a resolution was also passed to appoint the Applicant as the Liquidator and the Liquidators remuneration of Rs. 50,000/- plus GST & OPE per month from the date of appointment as a Liquidator till the completion of liquidation process, was approved. Both of the said resolutions were passed unanimously with hundred per cent of the voting share.

(11) As estimate of the liquidation cost is as per the table below. The estimate value of the liquid assets of the Corporate Debtor are sufficient to meet the liquidation costs.

Sl. No	Particulars	Description of Service	Period	Total (in Rs.)
1.	Shirley Mathew	Liquidator Fees	Oct-2020 to Mar-2021	3,54,000
2.	Public Advertisement			23,000
3.	Legal Counsel			1,00,000
4.	Account Assistant	Internal team	Oct-2020 to Dec-2020	1,05,000
5.	MRNM & Co.	Statutory Auditor FY: 2020-21		59,000
6.	Compliance Co.	Various		2,00,000

7.	Miscellaneous Cost			2,09,000
				10,50,000

(12) Since the resolution to liquidate the Corporate Debtor was passed by the CoC at this stage of the corporate insolvency resolution process of the Corporate Debtor, no advertisement inviting expressions of interest for the submission of resolution plans in accordance with the provisions of Section 25(2)(h) of the Code has been published. Revival through the Corporate Insolvency Resolution Process will not be possible. Further the CoC has passed a unanimous resolution to liquidate the Corporate Debtor, the mandate of Section 33(2) of the Code is attracted and consequently, the Corporate Debtor is required to be liquidated.

3. Ms. Maitreyi Bhat, learned Counsel for the Resolution Professional appeared and was heard through **Video Conference**. We have carefully perused the pleadings of the Party and the extant provisions of the Code and the Rules made thereunder.

4. The learned Counsel submits that a brief summary for the reasons for decline in the operations was prepared by the Applicant along with the Suspended Board of Directors and circulated along with the notice for the meeting. The CoC, after assessing the financial position of the Corporate Debtor, came to the conclusion that there were no disposable assets available with the Corporate Debtor and the same was hardly significant and that the debtors also had a negligent chance of recovery. Thus a resolution was passed to liquidate the Corporate Debtor at the meeting dated 11.09.2020. Accordingly, the CoC passed the resolution for liquidation, as mentioned supra.

5. As stated in the I.A the claims received are verified and admitted as on date based on the available records of the Corporate Debtor and shall be subject to change upon receiving further evidence/and after completion of audit of the accounts of the Corporate Debtor. Few operational claims from Bank, Operational Creditors, Employees, etc., from Union Bank of India (erstwhile Corporation Bank) has submitted a claim of which Rs.3,72,70,996/-, Four Operational Creditors have filed a claims totally amounting to Rs. 1,63,54,028

out of which Rs.64,99,514/- has been provisionally accepted, there are claims totalling to Rs.87,48,836 from 40 employees, out of which Rs. 62,36,440 has been admitted. The total liabilities of the Corporate Debtor as per the balance sheet dated 07.02.2020 is Rs.14,25,35,404/-. Subject to verification claims amounting to Rs. 5,43,35,864/- have been provisionally admitted. In the said balance sheet the value of the total assets is Rs.1,31,89,636/-. Further, revival through the Corporate Insolvency Resolution Process will not be possible. The CoC has passed a unanimous resolution to liquidate the Corporate Debtor, the mandate of Section 33(2) of the Code is attracted and consequently, the Corporate Debtor is required to be liquidated. Under these circumstances, as mentioned in the Petition, we are of the considered view that this is a fit case for liquidation.

6. The CoC has also passed a Resolution and proposed Ms. Shirley Mathews, as a Liquidator, for liquidating the Corporate Debtor. She has filed her written consent to act as Liquidator of the Corporate Debtor i.e., M/s. Bob Tech Solutions Private Limited dated 14.09.2020, u/s.33 of the IBC, 2016, by inter alia declaring that she is eligible to be appointed as Liquidator of the Corporate Debtor under regulation 3 and other applicable provisions of the Code and regulations; she is registered with the Board as an insolvency professional; she is not subjected to any disciplinary proceedings initiated by the Board or the Insolvency Professional Agency; she does not suffer from any disability to act as a Liquidator; she will make the disclosures in accordance with the code of conduct for Insolvency Professionals as set out in the insolvency and bankruptcy Board of India (Insolvency Professionals) Regulations, 2016; etc. Hence, she is provisionally eligible to be appointed as Liquidator.

7. In view of the facts and circumstances of the case, the Adjudicating Authority, by exercising its powers conferred under Section 33(1), 33(2) & 34(1) of the IBC, 2016, disposes of I.A.No.419 of 2020 in C.P.(IB)No.381/BB/2019 with following directions:

   a) It is hereby ordered that M/s. Bob Tech Solutions Private Limited, Corporate Debtor be liquidated in the manner as laid down in Chapter III of Part II of Code, R/w IBBI (Liquidation process) Regulations, 2016.

b) Ms. Shirley Mathews is hereby appointed as a Liquidator, subject to the terms and conditions to be agreed upon by the parties in the light of extant provisions of the IBBI. She is directed to follow the due process of law as per above Chapter and related Regulations, and to issue public announcement immediately by stating that the Corporate Debtor is in Liquidation.

c) The Registry is directed to communicate this order to the Registrar of Companies, Karnataka for information and necessary action and also to the Liquidator.

d) The Liquidator is directed to strictly adhere to the extant provisions of the Code and the Rules made thereunder by the IBBI from time to time and is also directed to take expeditious steps to complete the liquidation process in the light of various orders.

e) The Liquidator is further directed to make best efforts to revive the Corporate Debtor during Liquidation process, as a going concern.

f) Post the case for report of Liquidator on **10.03.2021**.

ASHUTOSH CHANDRA
MEMBER, TECHNICAL

RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL

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