

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

I.A.No.11 of 2021 in
C.P. (IB) No.216/BB/2018
U/s. 33 (1) R/w Section 34 of the IBC, 2016

In the matter of:

Mr. Ghanshyam Das Mundra
Erstwhile Resolution Professional of
M/s. Karuturi Global Ltd.,
E-204, Ashok Garden,
T. J. Road, Sewree,
Mumbai – 400 015

- Applicant/Resolution Professional

Date of Order: 25th January, 2021

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

Parties/Counsels Present (through Video Conference):

For the Applicant/RP : Shri Pranav Gopalkrishna

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. I.A.No.11/2021 in C.P.(IB)No.216/BB/2018 is Mr. Ghanshyam Das Mundra, Resolution Professional of M/s. Karuturi Global Ltd., (hereinafter referred to as 'Applicant/Erstwhile Resolution Professional'), U/s. 33 (1) R/w Section 34 of the IBC, 2016, by *inter-alia* seeking to consider and approve the initiation of Liquidation Process of the Corporate Debtor; and to appoint Mr. Pathukasahasram Raghunathan Raman as Liquidator of Corporate Debtor.
2. Brief facts of the case, as mentioned in the Application, which are relevant to the issue in question, are as follows:



- (1) Initially, C.P.(IB)No.216/BB/2018 filed by M/s. Axis Bank Limited (Financial Creditor) against M/s. Karuturi Global Limited (Corporate Debtor), was admitted by the Adjudicating Authority vide Order dated 02.08.2019, by initiating CIRP in respect of the Corporate Debtor, appointing the Applicant as IRP, imposing moratorium etc. During the 11th meeting of CoC held on 4th September, 2020, the Resolution Plans submitted by three Prospective Resolution Applicants (PRA's) were deliberated upon and the same were put to vote through e-voting. Concurrently, the CoC also agreed to put up to vote a resolution to liquidate the Corporate Debtor U/s.33(2) of the Code. However, none of the Resolution Plans received the requisite votes as per Section 30 (4) of the Code and therefore remained without approval of the CoC.
- (2) On 29.06.2020, the CoC at its 6th Meeting authorised the RP to seek exclusion of a period of 60 days from the computation of the CIRP period of the Corporate Debtor on account of the stay ordered by this Adjudicating Authority on 03.09.2019 which continued till 16.01.2020 in I.A.No.421/2019. The Adjudicating Authority vide its order dated 24.07.2020 in I.A.No.244/2020 was further extended by 60 days. During the pendency of I.A.No.244/2020, the Government of Karnataka had ordered further lockdowns on 5.07.2020, 12.07.2020, 19.07.2020 and 26.07.2020 vide Order No. RD 158 TNR 2020 dated 30.06.2020. Thereafter, on 13.07.2020, the Government of Karnataka issued Order No.RD-158 TNR 2020 dated 13.07.2020, whereby it is directed to lockdown in Bengaluru Urban district for a period of seven days from 15.07.2020 till 21.07.2020. The CIRP of the Corporate Debtor expired on 14.09.2020.
- (3) The RP issued the Information Memorandum and Evaluation Matrix to all PRAs. The last date of submission of Resolution Plans was notified as 12.08.2020. Although certain Resolution



Plans were submitted by three (3) PRAs, it was found that these were either not submitted in the prescribed form and/or not submitted within the stipulated deadline of 18.00 IST on 12.08.2020. The Members of the CoC took note of this and on 28.08.2020, at the 9th meeting of the CoC, the RP was directed to re-issue the Request For Resolution Plans (RFRP) under Regulation 36B(7) CIRP Regulation in the best interest of the CIRP. As per re-issued RFRP, the PRAs were required to submit Resolution Plans on or before 02.09.2020. The Resolution Plans received were considered in the 11th meeting of the CoC held on 04.09.2020.

- (4) Further, it is submitted that all necessary actions have been taken by the Applicant as required under the IBC and all efforts have been made to successfully resolve the debts of the Corporate Debtor and sustain it as a going concern. The Applicant has made all efforts to take charge of the affairs of the Corporate Debtor and has made timely representations and submission to all statutory authorities in connection with the affairs of the Corporate Debtor. The Applicant has filed Progress Reports for all the months of the CIRP up to August, 2020.
- (5) Thereafter, on 28.09.2020, the Applicant received emails from Axis Bank Ltd., and ICICI Bank Ltd., (together holding 98.62% voting share in the CoC) indicating their decision to nominate for appointment as Liquidator, Mr.Pathukasahasram Raghunathan Raman, bearing Registration No.IBBI/IPA-002/IP-N00295/2017-18/10896. Hence, the instant Applicant is filed for seeking the reliefs as prayed for.

3. Heard Shri Pranav Gopalkrishnan, learned Counsel for RP, **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. As detailed supra, the Resolution Professional and the COC of the Corporate Debtor, have made their best efforts to find a suitable Resolution Plan to revive the business of the Corporate Debtor. However, in the absence of any Resolution Plan received, there is no other alternative for the COC except to seek to order to liquidate the Corporate Debtor as per the provisions of the Code. The Resolution to initiate liquidation was also approved by the COC with requisite majority and the instant Application is filed strictly in accordance with law. The COC has also proposed Mr.Pathukasahasram Raghunathan Raman with Registration No.IBBI/IPA-002/IP-N00295/2017-2018/10896 as a Liquidator, for liquidating the Corporate Debtor, who has filed a written consent dated 15.12.2020 to act as Liquidator of the Corporate Debtor i.e., M/s. Karuturi Global Limited by *inter-alia* declaring that he is not subject to any disciplinary proceedings against him with the Board or Insolvency Professional Agency etc. Hence, he is provisionally eligible to be appointed as Liquidator. Therefore, it is a fit case to initiate Liquidation in respect of Corporate Debtor.
5. In view of the facts and circumstances of the case, the Adjudicating Authority, by exercising powers conferred under Section 33(2) of the IBC, 2016, allowed **I.A.No.11 of 2021** in C.P.(IB)No.216/BB/2018 with following directions:
- a) It is hereby ordered that M/s. Karuturi Global Limited, Corporate Debtor to be liquidated in the manner as laid down in Chapter III of Part II of Code, R/w IBBI (Liquidation process) Regulations, 2016.
 - b) Mr. Pathukasahasram Raghunathan Raman 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. He is directed to follow due process of law as per above Chapter and Regulations and to issue public



announcement immediately by stating that the Corporate Debtor is in liquidation.

- c) The Liquidator is directed to strictly adhere to the extant provisions of the Code and the Rules made thereunder framed by the IBBI from time to time and also directed to take expeditious steps to complete the liquidation process in the light of various orders.
- d) He is further directed to take steps for early dissolution of Corporate Debtor, in terms of Rule 14 of IBBI (Liquidation Process) Regulations;
- e) The Registry is directed to communicate a copy of this order to all Parties immediately for information and to take necessary action;
- f) Post the case for report of Liquidator on 1st March, 2021.



ASHUTOSH CHANDRA
MEMBER, TECHNICAL



RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL

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