



NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT-IV)
IA-5967/ND/2022

IN
Company Petition No. (IB)-3455 (ND) 2019

IN THE MATTER OF :

M/s Woodpeckers India Pvt. Ltd.

....Operational Creditor

Versus

M/s MK Furncraft Pvt. Ltd.

....Corporate Debtor

AND IN THE MATTER OF :

Mr. Hans Raj Bhogra
Resolution Professional
M/s MK Furncraft Pvt. Ltd.

...Applicant

Order Delivered on: 30.01.2023

Under Section: 33(1) of the IBC, 2016.

CORAM:

SH. BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)

DR. BINOD KUMAR SINHA, HON'BLE MEMBER (TECHNICAL)

ORDER

PER: SH. BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)

This IA has been filed by Mr. Hans Raj Bhogra, the Resolution Professional of M/s MK Furncraft Private Limited. (**“the Applicant”**) under 33(1) of the



Insolvency and Bankruptcy Code, 2016, for seeking the following main reliefs:

1. *“To allow the present Application.*
2. *Pass an order directing the Corporate Debtor, M/s MK Furncraft Pvt. Ltd. to be liquidated in the matter as laid down under Chapter III of the IBC, 2016.*
3. *Pass an order appointing Mr. Hans Raj Bhogra as the liquidator of the Corporate Debtor.*
4. *Pass an order declaring that the liquidator shall be paid fees in accordance with Regulation 4 of the IBC Regulations, 2017 for the purpose of liquidation of the Corporate Debtor.*
5. *Order directing the personnel of the Corporate Debtor shall extend all assistance and cooperation to the liquidator as may be required in managing the affairs of the Corporate Debtor and in discharging his functions as specified under Section 35 of the Code.”*

2. Facts of the case in brief are that this Adjudicating Authority vide its admission order dated 16.02.2022 initiated CIRP against the Corporate Debtor. Since the Operational Creditor did not propose any Interim Resolution Professional to be appointed for the CIRP of the Corporate Debtor, hence this Adjudicating Authority appointed Applicant herein, Mr. Hans Raj Bhogra as the IRP of the Corporate Debtor.
3. It is stated by the Applicant that on 17.02.2022, a public announcement in Form-A was made for the attention of the creditors of M/s MK Furncraft Private Limited.



4. The Applicant states that in its 1st meeting held on 15.03.2022 the CoC passed a Resolution for confirming the Applicant as the Resolution Professional of the Corporate Debtor.
5. It is further stated by the Applicant that in accordance with Regulation 36A of the CIRP Regulations along with eligibility criteria for the Prospective Resolution Applicants for submitting Resolution Plan publication of expression of Interest in Form-G was made 10.05.2022 in Financial Express (English Edition/Delhi) and in Jansatta (Hindi Edition/Delhi). After the said publication of Form-G the Applicant herein received only one EOI from M/s Sunrise Industries, a partnership firm.
6. It is further stated by the Applicant that the last date for submission of Resolution Plan was 09.07.2022. However, the Applicant didn't receive any Resolution Plan from the PRA even after RFRP and Information Memorandum was duly issued. The Applicant stated that CIRP period of the Corporate Debtor was to expire on 15.08.2022. Therefore, vide 5th CoC meeting held on 03.08.2022 resolutions with respect to the approval of seeking extension of 90 days of the CIRP period and also the approval for the re-publication of Form-G was approved by the CoC 100% voting share.
7. In furtherance to the aforesaid resolution passed vide 5th CoC meeting, the Applicant filed an Application bearing I.A. No. 4113/ND/2022 under Section 12 of the Code before this Adjudicating Authority seeking extension of CIRP period by a further period of 90 days beyond 180 days, and after consideration of the reasons as mentioned in the said IA, vide order dated 01.09.2022 this Adjudicating Authority extended the CIRP period by 90



days. Further, Form-G was re-published on 10.08.2022 in 2 newspapers i.e. Financial Express and Jansatta. Thereafter, the Applicant had received two EOIs from the PRAs. However, the EMD of Rs. 10 Lakhs was not received.

8. It is further stated by the Applicant, that in the 7th meeting of the CoC held on 07.11.2022, since no resolution of the Corporate Debtor could be reached and the CIRP of the Corporate Debtor was to come to an end on 13.11.2022, therefore, vide 7th CoC meeting held on 07.11.2022 the members of CoC resolved to liquidate the Corporate Debtor unanimously.
9. It has been further stated by the Applicant that Registered Valuers were appointed for the Corporate Debtor on 02.09.2019 in accordance with Regulation 27 of the CIRP Regulations for conducting valuation. However, in absence of any company records and details regarding the assets of the Corporate Debtor, the valuation could not be conducted..
10. The RP has also filed his 'written communication' / consent to act as Liquidator of the Corporate Debtor as required under Section 34(1) of the IBC, 2016.
11. In the circumstances as stated above, this Adjudicating Authority has not received any Resolution Plan from the Corporate Debtor till date and there being no other alternative, this Bench is inclined to accept the Resolution of the COC and order Liquidation of the Corporate Debtor.
12. In sequel to the above, **the IA is allowed, ordering Liquidation of the Corporate Debtor, M/s MK Furncraft Pvt. Ltd.** in the manner as laid down in the Chapter III of Part II of the Insolvency and Bankruptcy Code,



2016 and in accordance with the relevant Rules and Regulations along with the following directions:

- a. Mr. Hans Raj Bhogra, having IBBI Registration No. IBBI registration Number (IBBI/IPA-003/ICAI-N-00389/2021-2022/13940), is appointed as Liquidator, who has given his written consent to act as Liquidator in terms of Section 34 (1) of IBC 2016;
- b. The Liquidator, is directed to issue public announcement clearly stating that the Corporate Debtor is under Liquidation in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;
- c. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- d. This Order shall be deemed to be a notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- e. **Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor to determine the undervalued and preferential transactions etc., if any.**
- f. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five (75) days from the Liquidation commencement date as per Regulation 13 of the



Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.

- g. **The Registry is directed to communicate a copy of this Order by email to the Operational Creditor, the Corporate Debtor and Liquidator Mr. Hans Raj Bhogra at the earliest but not later than seven days from today.**
- h. A copy of this Order be sent by the Registry and Liquidator to the Registrar of Companies (RoC), NCT of Delhi & Haryana for updating the Master Data. After updating the Master Data, ROC shall send compliance report to the Registrar, NCLT within a period of 30 days;
- i. The Registry and Liquidator are directed to communicate a copy of this Order to the Insolvency and Bankruptcy Board (IBBI) of India for their record.

13. IA-5967/ND/2022 filed in IB-3455(ND)/2019 is allowed in the aforesaid terms.

Sd/-

**(DR. BINOD KUMAR SINHA)
MEMBER (T)**

Sd/-

**(BACHU VENKAT BALARAM DAS)
MEMBER (J)**