

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

IA No.217/KB/2021
in
CP (IB) No.1348/KB/2019

Under section 33(1)(a) of Insolvency & Bankruptcy Code, 2016

In the matter of:

Meti Finance Private Limited, having its registered office at 733, Marshall House, 33/1,
N.S. Road, Kolkata – 700001.

... Financial Creditor

Versus

Crystal Cable Industries Limited, a company having its registered office at 3rd Floor,
32A, Ganesh Chandra Avenue, Kolkata-700013.
(CIN: L31300WB1965PLC026637)

...Corporate Debtor

And

Mr. Anil Anchalia
Resolution Professional of Crystal Cable Industries Limited

... Applicant

Order reserved on: 05/04/2021
Order pronounced on: 28/05/2021

Coram:

Shri Rajasekhar V.K.	:	Member (Judicial)
Shri Harish Chander Suri	:	Member (Technical)

Appearances (through video conferencing):

For the Applicant

Mr. Rahul Parasrampur, Pr. CA
Mr. Anil Anchalia, Resolution Professional

ORDER

Per: Harish Chander Suri, Member (Technical)

1. This Tribunal convened *via* video conference.
2. This is an application filed by the Resolution Professional seeking liquidation of the Corporate Debtor, *viz.*, Crystal Cable Industries Limited [CIN: L31300WB1965PLC026637], on the ground that no Resolution Plan approved by the CoC and the CoC by 96.70% voting share approved liquidation of the Corporate Debtor.
3. This Adjudicating Authority *vide* its order dated 11/02/2020 on a Petition filed by Meti Finance Private Limited (*Financial Creditor*) under section 7 of the Insolvency and Bankruptcy Code, 2016 (*the Code*) directed initiation of the Corporate Insolvency Resolution Process ('CIRP') against the Corporate Debtor and appointed Mr. Mahesh Chand Sharma as the Interim Resolution Professional (IRP), a copy of the order dated 11/02//2020 is annexed with the application and marked with the **Letter "A"**.
4. In terms of section 15 of the Code, public announcement in Form 'A' was made on 14/02/2020 in "*Business Standard*" (English) and "Ajkaal" (Bengali). Copies of the said publications are annexed with the application and marked with the **Letter "C"**.
5. Pursuant to the said public announcement, claim were received by the RP and the RP constituted the Committee of Creditors (CoC) and the first CoC meeting was conducted on 12.03.2020. The Committee of Creditors (CoC) in its first meeting

dated 12.03.2020 appointed Mr. Anil Anchalia, the applicant herein as Resolution Professional (RP) in place of Mr. Mahesh Chand Gupta, IRP. This Adjudicating Authority confirmed the appointment of Mr. Anil Anchalia as the RP vide its order dated 29.07.2020.

6. Invitation for Expression of Interest (EoI) was published by the IRP in Form 'G' on 01/07/2020 in "Business Standard" and "Aajkaal" and again by the RP on 24/08/2020 in "Business Standard" and "Ekdin" fixing the last date for receipt of EoI as 08.09.2020. Copies of said publications are annexed to the application and marked as Annexure –C.
7. Pursuant to EOI publications, seven EoIs were received and the last date of submission of the Resolution Plan was 19.10.2020. Out of seven EoIs only one Resolution Plan was received by the RP and i.e. from Supreme & Co. Pvt. Ltd. within the prescribed period of time.
8. Further, Laxmi Global Private Limited filed an application before this Adjudicating Authority under Section 60(5) for condonation of delay in submission of EOI before the RP. This Adjudicating Authority vide order dated 04.12.2020 allowed the said application being IA No. 1289/KB/2020 and condoned the delay in submission of EOI before the RP. Pursuant to that, Laxmi Global Private Limited submitted its Resolution Plan before the RP.

On the very same day i.e. on 04.12.2020, this Adjudicating Authority also extended the CIRP period by 60 days from 15.12.2020 (the date of completion of 180 days) after excluding period of 129 days from 25.03.2020 to 31.07.2020 and thus the revised expiry date of CIRP was 13.02.2021

9. Therefore, the RP received two Resolution Plans i.e. from Supreme & Co. Private Limited and Laxmi Global Private Limited which he placed before the CoC in its 9th CoC meeting held on 15.12.2020.

10. In the 12th CoC meeting held on 22.01.2021, the RP placed both the compliant Resolution Plans before the CoC for their consideration and necessary approval. However, neither of the Resolution Plans obtained requisite percentage of votes and therefore both the Resolution Plans failed to be approved by the CoC with requisite majority.

11. In the 13th CoC meeting held on 08.02.2021, Bank of Baroda, one of the CoC members having 75.79% voting shares, proposed Liquidation against the Corporate Debtor and further proposed the name of Ms. Rachna Jhunjunwala, Insolvency Professional to be appointed as Liquidator of the Corporate Debtor. Consent letter of Ms. Rachna Jhunjunwala was also placed in the meeting. Consent letter of Ms. Rachna Jhunjunwala is annexed to the application at Annuexure H.

In the meeting the RP informed the CoC that in accordance with the provisions of Section 34 of the Code, where the Adjudicating Authority passes an order for liquidation of the Corporate Debtor under Section 33, the RP appointed for the CIRP of the Corporate Debtor under Chapter II shall, subject to submission of a written consent by the RP to the Adjudicating Authority in specified form, shall act as the Liquidator for the purposes of liquidation unless replaced by the Adjudicating Authority under sub-section (4). The Consent letter of the RP Mr. Anil Anchalia is annexed to the application at Annuxure G.

A copy of the minutes of the 13th CoC meeting is annexed to the application at Annexure-F.

12. In the 14th CoC meeting held on 12.02.2021, CoC passed a resolution with 96.70% voting share for initiation of Liquidation against the Corporate Debtor pursuant to Section 33(2) of IBC, 2016. A copy of the minutes of the 14th CoC meeting is annexed to the application at Annexure-H.

13. Pursuant to the decision of the CoC to liquidate the Corporate Debtor, the RP filed this application being IA No. 217/KB/2021 for Liquidation of the Corporate Debtor.
14. We have considered the submission made by the Ld. Authorised Representative appearing for the Applicant and perused the records.
15. Section 33(2) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Debtor 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 sixty-six percent of the voting share, to liquidate the Corporate Debtor. In the present case, the CoC has resolved by 96.70% voting share to liquidate the Corporate Debtor.
16. Section 34(1) of the Code envisages that subject to the submission of a written consent by the resolution professional, the Adjudicating Authority shall appoint the RP as the Liquidator. The only procedure under the Code for appointment of a Liquidator in an application filed under section 33 of the Code is this, that the RP shall be appointed as the liquidator unless replaced by the Adjudicating Authority under section 34(4), subject to his/her consent to act as such liquidator.
17. In the present case, the RP wanted to continue as the liquidator. RP has given his consent which is annexed to the application at Annexure G. Section 34 of the Code does not envisage any role for the CoC in appointment of the Liquidator.
18. This is a case where two Resolution Plans were received but neither of them approved by the CoC and the period of CIRP has expired on 13.02.2021.

Therefore, there is no alternative but to order the liquidation of the Corporate Debtor.

19. This Bench, therefore, hereby orders as follows: -

- a. IA No. 217/KB/2021 filed by Mr. Anil Anchalia, RP of Crystal Cable Industries Limited, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof.
- b. Section 34(1) of the Code envisages that subject to the submission of a written consent by the resolution professional, the Adjudicating Authority shall appoint the RP as the Liquidator. Since the RP Mr. Anil Anchalia has submitted his consent to act as the Liquidator of the Corporate Debtor, we hereby appoint Mr. Anil Anchalia, with IBBI Registration No. IBBI/IPA-001/IP-P00049/2017-2018/10123, E-mail ID: anilanchalia@yahoo.com, telephone no. 7980034291 & 8100310299, is hereby appointed as liquidator as provided under section 34(4)(c) of the Code, subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019.
- c. The RP is hereby directed to handover all documents in his possession in respect of the Corporate Debtor to the Liquidator appointed in this matter within 15 days from today.
- d. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- e. Public Notice shall be issued once in "*Business Standard*" in English and

once in “*Aajkaal*” (Bengali) stating that the Corporate Debtor is in liquidation.

- f. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidation.
 - g. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
 - h. On initiation of the liquidation process but 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, as provided in section 33(5) of the Code read with its proviso.
 - i. In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a 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.
 - j. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, Kolkata, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.
20. The application bearing **IA No. 217/KB/2021** shall stand disposed of in accordance with the above directions.
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21. **CP (IB) No. 1348/KB/2019** to come up for filing of periodical report on 23.07.2021.
22. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
23. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Harish Chander Suri
Member (Technical)

Rajasekhar V.K.
Member (Judicial)

28/05/2021

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