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

**IA No.543/KB/2021**
**in**
**CP (IB) No.108/KB/2019**

*Under section 33(2) of Insolvency & Bankruptcy Code, 2016*

*In the matter of:*

United Bank of India

... Financial Creditor

*Versus*

Purple Advertising Services Private Limited
(CIN: U74300WB2008PTC127335)

...Corporate Debtor

*And*

Shyamal Kumar Bhattacharjee,
RP of Purple Advertising Services Private Limited

… Applicant

Order reserved on: 28/04/2022

Order pronounced on: 18/05/2022

*Coram:*

| | | |
|---|---|---|
| Shri Rohit Kumar Kapur | : | Member (Judicial) |
| Shri Harish Chander Suri | : | Member (Technical) |

*Appearances (through video conferencing):*

| | | |
|---|---|---|
| For RP | : | Mr. Shaunak Mitra, Adv.<br>Mr. Vikash Singh, Adv.<br>Ms. Sudha Singh, Adv. |

| | | |
|---|---|---|
| For IDBI Bank Ltd. in IA/238/2022 | : | Mr. Pritesh Bansod, Adv.<br>Mr. Supriyo Singh, Adv.<br>Ms. Suchita Sharma, Adv.<br>Ms. Shahriar Hossain, Adv. |
| For Boho Boss In IA/725/2022 & IA/759/2022 | : | Mr. Joy Saha, Sr. Adv.<br>Ms. Sananda Ganguli, Adv. |
| For applicant in IA/374/2021 | : | Mr. Arhat Biswas, Adv.<br>Mr. Ishaan Saha, Adv. |

**O R D E R**

***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.,* Purple Advertising Services Private Limited [CIN: U74300WB2008PTC127335], on the ground that no Resolution Plan has been approved by the CoC and the CoC by 100% voting share approved liquidation of the Corporate Debtor.

3. This Adjudicating Authority *vide* order dated 29/10/2019 on a Petition filed by United Bank of India *(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 the Applicant herein as the Interim Resolution Professional (IRP), a copy of the order dated 29/10/2019 is annexed with the application and marked as "A"

4. In terms of section 15 of the Code, public announcement in Form 'A' was published. CoC was formed.

5. The first meeting of CoC was held on 27/11/2019, wherein the IRP was confirmed as RP. A photocopy of the order dated 19/12/2019 is annexed with the application and marked as "B".

6. After granting exclusion on account of COVID 19 pandemic and extension of 90 days w.e.f. 14/12/2020 the extended CIRP ended on 13/03/2021. A copy of the order dated 14/12/2020 is annexed with the application and marked as "C".

7. Public announcement in Form 'G' was made inviting EoI from prospective Resolution Applicants.

8. Two prospective Resolution Applicants, viz., M/s. Bohoboss Entertainment Pvt. Ltd. and M/s. Veekay Apartments Pvt. Ltd. had submitted their revised Resolution Plan on 02/02/2021.

9. At the 21st CoC meeting held on 09/03/2021, the resolution was passed with 100% voting share to make an application to extend the period of CIRP by a further period of 30 days. Accordingly, an application was filed on 19/03/2021 for extension of the said CIRP period by a further period of 30 days bearing filing no. 1908134/00731/2021. A copy of the minutes of the said CoC meeting dated 09/03/2021 is annexed with the application and marked as "D".

10. At the 22nd CoC meeting held on 07/04/2021, the RP requested the CoC members to share their view on the said resolution plans. The CoC has observed some discrepancies in the revised resolution plan of M/s. Veekay Apartments Pvt. Ltd. and M/s. Veekay Apartments Pvt. Ltd. had duly made the required changes and submitted their revised plan. However, M/s. Bohoboss Entertainment Pvt. Ltd. did not submit any revised resolution plan. A copy of the minutes of the said 22nd CoC meeting is annexed to the application and marked as "E".

11. At the 23rd CoC meeting held on 09/04/2021, the resolution plan submitted by M/s. Veekay Apartments Pvt. Ltd. was rejected for not attaining of 66.67% voting share and resolution was passed by CoC with 100% voting share for liquidation of the Corporate Debtor. A copy of the minutes of the said 23rd CoC meeting held on 09/04/2021 along with its voting result is annexed to the application and marked as "F".

12. *Vide* order dated 07/02/2022 this Adjudicating Authority had directed the members of CoC to consider the Resolution Plan as offered by Veekay Apartments Private Limited and take its decision accordingly. A copy of the said order is annexed with the Supplementary Affidavit and marked as "Annexure P/1".

13. In compliance of the said order dated 07/02/2022, 24th CoC meeting was held on 22/02/2022. A copy of the minutes of the meetings of the 24th CoC meeting is annexed with the Supplementary Affidavit and marked as "Annexure P/2".

14. The 25th CoC meeting, which was supposed to be held on 14/03/2022 in order to finalise the decision upon revision of the said Resolution Plan by Veekay Apartments Private Limited was postponed and finally held on 25/04/2022 and the same was rejected by the CoC. The voting result is as follows:

| Sl. No. | Name of the Financial Creditor | As per admit-ed claim voting share (%) | Voting in favour | Voting against |
|---|---|---|---|---|
| 1. | State Bank of India | 44.32 | In favour | - |
| 2. | Punjab National Bank (erstwhile United Bank of India | 45.81 | - | Against |
| 3. | UCO Bank | 9.73 | - | Against |
| 4 | Simoco Systems & Infrastructures Solutions Ltd. | 0.14 | - | Absent and no vote cast |

A copy of the minutes of the meetings of the 25th CoC meeting is annexed with supplementary affidavit and marked as Annexure P/4".

15. The Resolution Professional gave his consent to act as the Liquidator of the Corporate Debtor. A copy of the said written consent along with authorisation of assignment of the applicant is annexed with the application marked as "G".

16. We have considered the submission made by the Ld. Counsel appearing for the Applicant and perused the records.

17. This is a case where Resolution Plan, though received, but the same was not approved by the CoC., and the period of CIRP has expired. Therefore, there is no alternative but to order the liquidation of the Corporate Debtor.

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

a. IA No. 543/KB/202 filed by Mr Shyamal Kumar Bhattacharjee, RP of Purple Advertising Services Private 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. Since Mr. Shyamal Kumar Bhattacharjee, RP [Reg. No. IBBI/IPA-003/IP-N00092/2017-18/10892] has given his consent to act as Liquidator of the Corporate Debtor, he is hereby appointed as the 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 Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India

(Liquidation Process) Regulations, 2016.

d. Public Notice shall be issued in the same newspapers as earlier issued, stating that the Corporate Debtor is in liquidation.

e. 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 Liquidator.

f. 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.

g. 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.

h. 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.

i. 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.

19. The application bearing **IA No. 543/KB/2021** shall stand disposed of in

accordance with the above directions.

20. **CP (IB) No. 108/KB/2019** to come up for filing of periodical report on **11/08/2022**.

21. 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.

22. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

**Harish Chander Suri**
**Member (Technical)**

**Rohit Kapoor**
**Member (Judicial)**

Signed on this, the 18th day of May, 2022.

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