IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 2

ITEM No 130
IA/364 of 2021
in
CP(IB) 78 of 2019

Order under Section 33 & 34 of IBC

IN THE MATTER OF:

Pinakin Shah RP of Red Marine Services Ltd. ....**Applicant**
V/s
Religare Finvest Ltd. ....**Respondent**

Order delivered on ..14/09/2021

Coram:
Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The matter is listed today for pronouncement of order.

The order is pronounced in the open court, vide separate sheet.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-II

IA/ 364(AHM) 2021 in
C.P.(IB) 78/NCLT/AHM/2019

[An Application under Section 33 & 34 of the Insolvency and Bankruptcy Code, 2016]

<u>In the matter of:</u>

Mr. Pinakin Shah,
RP of M/s Reds Marie Services Limited,
Survey No. 658, Vill Rampara-II,
Taluka Rajula,
Vill. Lunsapur,
Taluka Jafrabad,
Amreli-365560, Gujarat. .... Applicant

<u>In the matter of:</u>

Religare Finvest Limited,
2nd Floor, Rajlok Building,
24, Nehru Place,
New Delhi-110019. .... Financial Creditor

Versus

M/s Reds Marine Services Limited,
(formerly known as Pipavan Engineering and Defence Services Limited)
Survey No. 658, Vill Rampara-II,
Taluka Rajula, Vill Lunsapur,

Taluka Jafrabad, Amreli 365560,
Gujarat. ...Corporate Debtor

Order reserved on 13th September, 2021
Order delivered on 14th September, 2021

Coram: MADAN B. GOSAVI, MEMBER (J)
VIRENDRA KUMAR GUPTA, MEMBER (T)

Appearance...

For the Applicant : Advocate, Mr. Pavan Godiawala.
For the Respondent : Mr. Madan Pendse.

ORDER

[Per : VIRENDRA KUMAR GUPTA, MEMBER (T)]

1) Through this application RP is seeking an order from this Adjudicating Authority for initiating liquidation process of the Corporate Debtor. The Corporate Debtor was admitted into CIRP vide order of this Bench dated 06.11.2020. The initial period of 180 days expired on 11.05.2021, however, due to pandemic situation the limitation period for filing this application stood extended in view of the order of the Hon'ble Supreme Court in Misc. Application No. 665 of 2021. During

the course of CIRP, public announcement was made by the IRP. COC was also constituted according to the provisions of IBC, 2016. Four meetings of the COC were held. Registered valuers were also appointed to value financial assets of the Corporate Debtor. Transaction Auditors were also appointed to find out any preferential or undervalued preferential transactions. COC did not approve the issuance of EOI as the Corporate Debtor was not having any tangible assets and also for the reason that ultimate holding company as well as fellow subsidiary company are also going under CIRP. In fourth meeting of COC, after expiry of 180 days and in view of the fact that there were no possibilities for resolution, the COC approved the proposal for the liquidation of the Corporate Debtor and recommended appointment of RP as Liquidator. Thus, this application.

2) The learned counsel on behalf of Applicant appeared and narrated the basic facts and submitted that all the necessary Regulations 39(B), 39(C) and 39(D) of CIRP Regulations 2016

had been passed and copies of the same are attached with the application. Our attention was also drawn to Form-H being the compliance certificate which is required to be filed under Regulation 39(4) of CIRP Regulations.

3) On due consideration of facts and circumstances of the case which established the point that no resolution of insolvency is possible in the present case and the COC has also passed the resolution for initiation of liquidation proceedings with requisite majority. Hence, we are of the view that the initiation of liquidation process is justified in the case of the Corporate Debtor. The present RP has been proposed to act as Liquidator who has also given his consent to act as such. Accordingly, we appoint him as Liquidator.

4) In the result, we initiate the liquidation process in the case of Corporate Debtor and pass following order:

ORDER

i. We pass the order for initiation of liquidation of Corporate Debtor in terms of provision of Section 33(1) of IBC, 2016 read with regulations made there-under which shall be effective from the date of this order.

ii. As per the Section 34(1) of the I.B. Code, the Applicant/ Resolution professional, Mr. Pinakin Shah **(Registration No. IBBI/IPA-002/IP-N00106/2017-2018/10248), is hereby appointed as a Liquidator of the company M/s. Reds Marie Services Limited** having CIN No.U29219GJ2012PLC070565, which has been duly approved by COC in its fourth meeting, dated 08.05.2021.

iii. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor, hereafter, cease to exist. All these powers henceforth, vest with the Liquidator.

iv. The personnel(s) of the Corporate Debtor are directed to extend all co-operations to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

v. The Liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.

vi. That once liquidation process initiated, by virtue of Section 52 of the Code, no suit or other legal proceedings 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 mentioned in Sub-Section 6 of Section 33 of the I.B. Code.

vii. The Liquidator shall co-ordinate with all the authorities and the respected Government Authorities and shall provide complete information to facilitate the process of Liquidation.

viii. The Liquidator is at liberty to seek any directions, if need be from this Tribunal during the Liquidation Process.

ix. The Liquidator shall take necessary legal action to recover the trade receivables and other credits such as loans and advances from the parties which are reflected in the latest balance sheet of the Corporate Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed under Section 33(5) of the Code.

x. This liquidation order shall be a deemed to be 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.

xi. The Moratorium declared vide order dated 06.11.2020 in CP (IB) No. 78/NCLT/AHM/2019, henceforth, ceases to exist. However, provision of Section 33(5) of IBC, 2016 shall continue to operate till the liquidation/dissolution shall be applicable as regard to suit or other legal proceeding instituted by or against the Corporate Debtor. The liquidator shall also comply with the requirements of this section in the circumstances specified therein.

xii. The present I.A. No. 364 of 2021 is allowed directing the appointed Liquidator to initiate and complete liquidation process as envisaged under Chapter – III of the Code by following the liquidation process as specified in the Insolvency and Bankruptcy Board of India (liquidation process) Regulations, 2016.

xiii. The Registry is directed to upload this order on the Official Website within maximum two working days from the date of this order. The authenticated copy of this order be also sent by the registry to the Financial Creditor, Corporate Debtor, Registrar of the Company, Resolution Professional come Liquidator by Speed-post within one week from this order.

5) Accordingly, the present I.A. No. 364 of 2021 is allowed and stands disposed of.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Abhishek