

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT II**

IA 1921 of 2019

In

CP (IB) 1752/MB/C-II/2017

Under Section 33(1)(a) of the
Insolvency and Bankruptcy Code,
2016.

In the Application of

Mr. Ketul R Patel

Office: 801, Popular House, Nr.
Income Tax Circle, Ashram Road,
Ahmedabad- 380 009

**...Applicant/Resolution
Professional**

In the matter of

Bank of Baroda

...Financial Creditor

Versus

Doshion Water Solution Pvt Ltd

...Corporate Debtor

Order Delivered on 20.09.2021

Coram:

Shri Ashok Kumar Bohra : Member (Judicial)

Shri Shyam Babu Gautam : Member (Technical)

Appearance (through Video Conferencing):

For the Applicant : Ms. Nalini Lodha

For Resolution Professional : Ms. Ami Jain

ORDER

Per : Ashok Kumar Borah, Member Judicial

1. The present application is filed by the Resolution Professional upon the instructions of the Committee of Creditors (CoC) seeking liquidation of the Corporate Debtor, *viz.*, Doshion Water Solution Private Limited, on the ground that there is no possibility for resolution of the Corporate Debtor.
2. This Adjudicating Authority *vide* its order dated 31.08.2018 on a Petition filed by Bank of Baroda (*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. Ketulbhai Ramubhai Patel as the Interim Resolution Professional (IRP) of the Corporate Debtor. The said IRP was confirmed as the Resolution Professional in the first CoC meeting dated 01.10.2018.
3. The said IRP published public announcement in Form A in Business Standard in English dated 05.09.2018 Sandesh (Ahmedabad edition) and Navshakti (Mumbai edition) on 05.09.2018. The IRP invited claims from the Financial/Operational Creditors and workers, employees of the Corporate Debtor.
4. The first CoC meeting was held on 01.10.2018. The Applicant appointed two valuers namely (1) Mr. Jagdishchandra Mistri and

Ms. Darshana Gajjar and Mr. Pinank Gajjar, (2) Mr. N J Shah and Mr. G G Shah on 08.10.2018 to determine the fair value and liquidation value of the assets of the Corporate Debtor.

5. The Applicant appointed M/s Grant Thornton India LLP as forensic auditor. The Applicant circulated the Information Memorandum to the members of the CoC on 06.10.2018.
6. In the third CoC meeting held on 13.11.2018, the RP published an advertisement inviting an expression of intent (EoI) on 14.11.2018 from prospective lenders, investors and any other persons to put forward their resolution plans in the Economic Times and Nav Shakti and also on websites of the Corporate Debtor and the Insolvency and Bankruptcy Board of India (“IBBI”).
7. The Applicant submits that pursuant to the said advertisement, the Applicant issued Request for Resolution Plan (RERP) to Prospective Resolution Applicants from whom EoI had been received. The last date for Submission of Resolution Plan(s) was 15.01.2019 which was extended to 14.02.2019 at fifth CoC meeting held on 28.12.2018. Meanwhile an Application for extension of CIRP period was filed.
8. The Applicant submits that no Resolution Plan were received up to 14.02.2019. Requests were received from two resolution applicants to extend the last date for submission of resolution plan by a period of 30 days. The said aspect was considered by CoC at its seventh meeting held on 15.02.2019. The CoC

approved the release of advertisement for inviting fresh Expression of Interest (EoI) and the last date for submission of Resolution Plan was extended by 30 days.

9. The Applicant submits that as the 180-day of CIRP period was getting over on 26.02.2019, the CoC at the meeting held on 28.01.2019 decided for extending the CIRP period and to allow another 30 days for submission of resolution plans. The Applicant filed MA No. 701/2019 with the Hon'ble NCLT, seeking the Hon'ble NCLT's approval for the extension of time for the corporate insolvency resolution process by a further period of 90 days w.e.f. 27.02.2019. The Hon'ble NCLT allowed the said MA vide its order dated 26.02.2019 and also allowed CoC to ask for second round of advertisement for submission of resolution plans.

10. That pursuant thereto, the Applicant received a resolution plan on 20.04.2019 from M/s P L Adke, Resolution Applicant, for a consideration of Rs. 54.19 crores. The said resolution plan was discussed in detail at the eleventh CoC meeting held on 04.05.2019. The Applicant submits that the Resolution Plan was not in consonance with the provisions of the Code and other relevant laws. Therefore, one more opportunity was given to Resolution Applicant to modify and resubmit the plan. The modified Resolution Plan was submitted to the Applicant on 11.05.2019. The said plan was circulated to the members of CoC for their comments/ views. The Applicant submits that since only one plan was received, the Resolution Applicant was

thereby called upon to make necessary modifications so as to make the plan in consonance with the provisions of laws.

11. The Applicant submits that the final modified plan with a revised consideration of Rs. 58.37 crores submitted on 18.05.2019, which was circulated to members as well as to the Corporate Debtor for their perusal. The Resolution Plan was put to vote before the CoC members. Accordingly, the resolution plan submitted by M/s PL Adke was rejected by Financial creditors representing 97.61% of the voting share of CoC.
12. The applicant submits that in the thirteen CoC meeting held on 24.05.2019, the Applicant submits that since no resolution plan had been approved by the CoC within the CIRP, the CoC directed the Applicant to file Application seeking liquidation of the Corporate Debtor.

ORDER

13. This Bench, therefore, hereby orders as follows: -
 - a. Upon perusal of the documents, records made available and submissions of the Applicant in the thirteenth meeting held on 24.05.2019, the CoC with majority of 100% approved to Liquidate the Corporate Debtor and directed the Applicant to file an application under section 33 (2) of the IBC for liquidation of the Corporate Debtor.
 - b. In view of the decision of the CoC, we are inclined to admit the IA 1921/2019 in CP 1752/2017 to initiate liquidation process against the Corporate Debtor. Accordingly, the

Adjudicating Authority Orders for initiation of Liquidation of the Corporate Debtor.

- c. This Bench hereby appoints Mr. Vikas Jain as Liquidator having [Reg. No. IBBI/IPA-001/IP-P00354/2017-18/10612], as Liquidator in terms of section 34(1) of the Code.
- d. The Fees payable to the Liquidator shall be in compliance with Regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.
- e. The Liquidator shall initiate the liquidation process as envisaged under Chapter-III of the Code and the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;
- f. Whenever the Liquidator issues any publication in the newspapers, the said shall be published in widely circulated newspapers in the State in which the Registered office of the Company is incorporated.
- g. Public Notice shall be issued in two newspapers, *viz.*, in *Times of India/ Business Standard* (English) and *Navshakti* (Marathi), stating that the Corporate Debtor is in liquidation, as required in terms of section 33(1) of the Code;
- h. All the powers of the Board of Directors and key managerial persons of the Corporate Debtor shall cease to exist. All these powers shall henceforth be vest with the Liquidator;

- j. The personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor;
- k. 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;
- l. 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;
- m. A copy of this order shall additionally be served by the Applicant/ RP on the concerned Registrar of Companies, within whose jurisdiction the Corporate Debtor has been registered, for updating the Master Data of the Corporate Debtor.
- n. The IA 1921 of 2019 is allowed. File to be consigned to records.

Sd/-

SHYAM BABU GAUTAM
MEMBER (TECHNICAL)

Sd/-

ASHOK KUMAR BORAH
MEMBER (JUDICIAL)