IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

KOLKATA

C.P. (IB) No. 1405/KB/2018

IN THE MATTER OF:

An application under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

-And-

An application under **section 33(2)** of the Insolvency and Bankruptcy Code, 2016 and other applicable provision s of law.

And

IN THE MATTER OF:

VENKATESH LOGISTICS PRIVATE LIMITED, a Company incorporated under the Companies Act, 1956, having registered office at 12, India Exchange Place, Jute House, Ist Floor, Kolkata 700001.

Corporate Debtor

And

IN THE MATTER OF:

VINOD KUMAR KOTHARI, Interim Resolution Professional of the Corporate Debtor.

... Applicant

Sd

Sd

**Coram: Shri Jinan K.R., Hon'ble Member (Judicial) &
Shri Harish Chander Suri, Hon'ble Member (Technical)**

Counsel on Record:

1. MS. BARSHA DIKSHIT, Pr.CS] For Interim Resolution Professional
2. MS. MEGHA MITTAL, Pr.CS]

Order pronounced on: 30/09/ 2019.

ORDER

Per Jinan K.R., Member (J):

1. CP(IB) No. 1405/KB/2018 is an application filed by the Oriental Bank of Commerce/Financial Creditor under Section 7 of the Insolvency & Bankruptcy Code 2016 for initiating the Corporate Insolvency Process as against the Corporate Debtor M/s. Venkatesh Logistics Pvt. Ltd./Corporate Debtor.

2. This application was admitted by an order dated 19.08.2019 by appointing Mr. Vinod Kumar Kothari as Interim Resolution Professional. Mr. Vinod Kumar Kothari issued publication upon commencement of Corporate Insolvency Resolution Process and issued public announcement on 21st August, 2018 in two newspapers viz., Financial Express in English and Aajkal in Bengali.

Sd/ Sd/

3. Upon submission of claims, the IRP has prepared a list of creditors consisting of One Financial Creditor other than the Financial Creditor Oriental Bank of Commerce, who filed the application. Upon receipt of claims the IRP has constituted the Committee of Creditors and First meeting has been held on 05.09.2019. He filed the 1st Progress Report on 11.09.2019 and Final Progress Report on 25th September, 2019 requesting the Adjudicating Authority to pass an order of Liquidation under Section 33(2) of the Insolvency & Bankruptcy Code.

4. It is submitted on the side of the IRP that the IRP has constituted Committee of Creditors comprising of 3(Three) Financial Creditors viz., ICICI Bank Limited, Oriental Bank of Commerce/Financial Creditor, the applicant herein and SREI Equipment Finance Limited's claim has not been verified and hence no voting percentage was assigned to them for the purpose of First CoC meeting.

5. It is further submitted that pending verification of claims from SREI Equipment Finance Limited, the Ld. IRP has filed this Final Progress Report praying for passing an order of liquidation. It is also submitted that a claim has been received from One Operational Creditor viz., National Security Depositories Limited. No other claims have been

Sd

Sd

received. According to the IRP the Corporate Debtor being engaged in the Logistics Industry and has no source of revenue and /or assets there are bleak or negligible chances of receiving a resolution plan, and as such, it shall be most viable to put the Corporate Debtor into direct liquidation. The CoC in the meeting held on 19.09.2019 unanimously approved the decision to put the Corporate Debtor into direct liquidation as per Section 33(2) of the Code.

6. Upon hearing the submission on the side of the Ld. Pr. Company Secretary, who is appearing on behalf of the IRP and upon perusal of the Progress Report, we are satisfied that the Corporate Debtor shall put to direct Liquidation as there is remote possibility of receiving a Resolution Plan as submitted by the IRP in his Report, which would be for the better interest of the Corporate Debtor. Accordingly, in terms of Section 33(2) of the Code, the request for initiation of liquidation of the Corporate Debtor submitted by the IRP is liable to be accepted. The Ld. Pr. CS also submits that Mr. Vinod Kumar Kothari is replaced by Mr. Raj Singhania, an Insolvency Professional who is holding IBBI registration No. IBBI/IPA-001/IP-00188/2017-18/10367, for continuing the Liquidation process as per the unanimous decision of the Committee of Creditors.

Sd Sd

7. In view of the above said, we are inclined to pass an order of **liquidation** under Section 33(2) of the Code upon the following directions.

ORDERS

(i) In view of the facts that the Corporate Debtor has been ordered to be liquidated, **Mr. Raj Singhania**, an Insolvency Professional who is holding IBBI registration No. IBBI/IPA-001/IP-00188/2017-18/10367 is appointed as the Liquidator and act in accordance with Rule 12 of Liquidation Process Regulation 2016 and submit the Preliminary Report as per Regulation 13 of the said Code.

(ii) The Registry is directed to communicate this order to the Registrar of Companies, West Bengal and to the Insolvency and Bankruptcy Board of India.

(iii) The order of moratorium passed under section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh moratorium u/s 33(5) of the Insolvency and Bankruptcy Code shall commence.

(iv) This order shall be deemed to be a notice of discharge of the Officers, employees and the workmen of the Corporate Debtor

Sd

Sd

as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016.

(v) A copy of this order be sent to the Financial Creditor, Corporate Debtor and the Liquidator for taking necessary steps.

(vi) **C.A. (IB) No. 1405/KB/2018 is disposed of** as above.

(vii) Urgent certified copy of this order, if applied for, be issued to the parties upon compliance of all requisite formalities.

Sd

(Harish Chander Suri)

Member (T)

Sd

30/9/19.

(Jinan K.R.)

Member (J)

Signed on this 30th day of September, 2019.

vc