

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-I)
KOLKATA**

**IA (IB) No.710/KB/2022
in
CP (IB) No. 1303/KB/2019**

Under section 33 of Insolvency & Bankruptcy Code, 2016

In the matter of

Gagan Ferrotech Limited

... Operational Creditor

Versus

RDG Interior Decoration Exterior Architecture Pvt. Ltd.
(U74994WB1999PTC088977)

... Corporate Debtor

Tapan Chakraborty, RP of RDG Interior Decoration Exterior Architecture Pvt. Ltd. having
329, Ganguly Bagan, Naktala, Kolkata-700 047

... Applicant/RP

Coram:

Mr. Rohit Kapoor : Member (Judicial)

Mr. Balraj Joshi : Member (Technical)

Appearances (through video conferencing):

For RP

Mr. Tapan Chakraborty, RP

Date of Hearing: 17.01.2023

Date of Pronouncement: 11/04/2023

ORDER

Per: Balraj Joshi , Member (Technical)

1. This is an application filed by the Resolution Professional seeking liquidation of the Corporate Debtor, viz RDG Interior Decoration Exterior Architecture Pvt. Ltd. on the ground of lackadaisical attitude of the CoC during the Corporate Insolvency Resolution Process(CIRP) of the Corporate Debtor.
2. This Adjudicating Authority *vide* its order dated 19.12.2019 on a Petition filed by the Gagan Ferrotech Limited (*operational creditor*) under section 9 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. Tapan Chakraborty as the Interim Resolution Professional (IRP) and confirmed his appointment as the Resolution Professional (RP) on 22.01.2020.
3. The Applicant submits that in terms of section 15 of the Code, public announcement was made on 25.12.2019, in Financial Express (English), and Aajkal(Kolkata Edition) fixing 06.01.2020 as the last date for submission of claim.
4. The Committee of Creditors (CoC) was duly constituted on 15.01.2020 with one claim from Punjab and Sind Bank, i.e., the financial creditor was received. After the Constitution of CoC further claims were received- till 31.01.2020 and were admitted and thus, CoC was reconstituted on 01.02.2020.
5. The first meeting of the CoC was held on 22.01.2020 wherein resolution was passed to appoint the Applicant as the Resolution Professional (RP). The Applicant states that the publication for the invitation of Expression of Interests (EoI) in Form G was not allowed from the prospective resolution applicant by the CoC nor they took resolution for liquidation of the Corporate Debtor.
6. The applicant /RP stated that at the 5th and 6th CoC meeting specific agenda about fate of CIRP were taken up for discussion to bring the process to a logical course but the members of CoC abstained from taking any decision pertaining to continuation of CIRP. Simply recommending for exclusion and extension of time-period of CIRP or recommending liquidation of the Corporate Debtor may not be fruitful. Therefore, the

Adjudicating Authority has to decide about next course of action in the company petition.

7. Hence the RP has filed an interlocutory application under section 60(5)(a) seeking liquidation under section 33(1)(a) of the Code, before the Adjudicating Authority for liquidation of the Corporate Debtor on expiry of the CIRP period since the stipulated time-period of CIRP is over, it is proposed to liquidate the Corporate Debtor.
8. In terms of order dated 04.07.2022 RP was directed to conduct a CoC meeting on 28.06.2022 on one-point agenda of “whether to liquidate to Corporate Debtor or not”. In the said meeting by both the members, the CoC accorded approval for initiation of liquidation of CD by 66.93% voting share.
9. This Adjudicating Authority vide its order dated 02.01.2023, RP was directed to file an affidavit that he is not interested to be the liquidator. The Applicant/Resolution Professional, has filed his supplementary affidavit and submit “No Consent” to act as liquidator of RDG Interior Decoration Exterior Architecture Pvt. Ltd, Corporate Debtor.
10. We have considered the submission made by the Applicant/RP in person and perused the record.
11. This Bench, therefore, hereby orders as follows: -
 - a. IA(IB)No. 710/KB/2022 filed by Mr. Tapan Chakraborty, RP RDG Interior Decoration Exterior Architecture Pvt. Ltd, 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. **Mr. Sanjeev Oza**, IBBI/IPA-001/IP-P01623/2019-2020/12502(email-sanjeevkoza@gmail.com Ph. No. 9831650909) is hereby appointed as Liquidator is hereby appointed as Liquidator as provided under section 34(1) 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 in which advertisements were issued earlier, 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.
12. The application bearing **IA (IB) No. 710/KB/2022** shall stand disposed of in accordance with the above directions.
13. 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.

14. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
15. List the main **CP (IB) No. 1303/KB/2019** for filing of periodical report on **3rd July 2023**.

Balraj Joshi
Member (Technical)

Rohit Kapoor
Member (Judicial)

Order signed on 11th day of April,2023.

M_Banerjee