IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH, CHENNAI

MA/95/2020 in CP/1263/IB/2018 filed under *Sections 33 (2)*, 33(4) of the Insolvency and Bankruptcy Code, 2016

In the matter of ***M/s. Vasmo Agro Nutri Products Private Limited.***

Subramaniam Aneetha,
Resolution Professional
M/s. ***Vasmo Agro Nutri Products Private Limited.***

... Applicant /Resolution Professional

Order delivered on: 13.03.2020

CORAM :

R. VARADHARAJAN, MEMBER (JUDICIAL)
S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For Applicant : *Ms. Shubharanjani Ananth, Advocate For Mrs. Subramaniam Aneetha, RP*

ORDER

Per: R. VARADHARAJAN, MEMBER (JUDICIAL)

Order Pronounced on: 13.03.2020

The above Application is filed by the Resolution Professional appointed by this Tribunal, seeking for the liquidation of the Corporate Debtor under Section 33 (2), 33(4) of the IBC, 2016. From the averments made by the Applicant, it is evident that the CIRP of the Corporate Debtor was initiated and the Applicant herein was appointed as IRP on 15.03.219 and the IRP caused public announcement calling for the claimants from the Creditors of the Corporate Debtor by virtue of publication dated 20.03.2019, subsequently, claims were filed by

Financial Creditors and Operational Creditors but no claims received from the workers and employees, pursuant to that the CoC was constituted on 09.04.2019 and the 1st meeting of the CoC was held on 17.04.2019. Thereafter, the CoC resolved to appoint the Applicant as the Resolution Professional on 25th April 2019. Pursuant thereto, the applicant appointed 2 IBBI Registered Valuers on 26.08.2019 for valuation assets of the Corporate Debtor and from Form-H filed as per as directions by this Tribunal, it is also evident that the fair value and liquidation value of the Corporate Debtor are as follows;

S. No	Particulars	Valuation Amount
1	Fair Value	2.135 crores
2	Liquidation Value	1.75 Crores

In addition it also brought to the notice of this tribunal that a forensic audit report had been received recently and will be dealt with accordingly during the process of liquidation.

2. It is also evident from the averments as averred in the Application that the Applicant has placed the draft Form – G and has sought approval for issue of Expression of Interest on 27.06.2019 for inviting prospective resolution applicants. The applicant states that even though there were couple of inquiries, however, no-expression of interest was received. During the 5th COC meeting held on 10.09.2019, the COC decided to recommend the corporate debtor for liquidation, since no resolution plan received. Thereafter, on next day of i.e on

11.09.2019 the major lender of the Corporate Debtor, the Karur Vysya Bank Limited received a proposal from a prospective Resolution Applicant to take over the factory of Corporate Debtor as a going concern. The Major lender requested the RP not to proceed with the filling of an application of liquidation as originally contemplated in the 5th meeting of the COC as the same will affect the interest of all stakeholders. In the meantime RP had also received letter from the suspended director of the Corporate Debtor, who is also Guarantor of the corporate debtor that he is willing to tender Resolution plan. His unequivocal and free consent for treating the land which is standing in his name given as security (Factory land and Building) and which has already been mortgaged with Major lender (KVB) of Corporate Debtor, as part of the liquidation estate and the same was recorded in the 6th meeting of the COC members. Further in the same meeting the COC members decided to apply for extension CIRP period. Accordingly, the RP filed an application for further 90 days extension of CIRP period and the same was granted by this Tribunal vide order dated on 06.11.2019.

3. Thereafter, in the 7th COC meeting, as per directions of the COC, the Information Memorandum was shared with a prospective Resolution Applicant and that last date of submission of Resolution plan was fixed as 9.12.2019. The prospective Resolution applicant did not submit the Resolution Plan and instead sought for further time for submission of a Resolution Plan. The RP, placed the request of the Prospective Resolution Applicant before the COC members at 8th COC

meeting held on 09.12.2019. The COC deliberated the said issue and decided to pass Resolution for Liquidation of the Corporate Debtor with 100% voting shares and also recommended the present RP to act as a Liquidator. Accordingly, the Applicant has filed the present Application before this Authority under Section 33(2) of IBC, 2016 for the Liquidation of the Corporate Debtor.

4. Since, in the 8th CoC meeting held on 09.12.2019, the Committee of Creditors has deliberated about the current affairs of the Corporate Debtor and based on its commercial wisdom has decided to liquidate the Corporate Debtor, by taking into consideration the provisions of Section 33 of IBC,2016 and in the absence of any opposition to the Application from the Promoters of the Corporate Debtor and also guided by the decision of the Hon'ble Supreme Court in the matter of **Mr. K. Sasidharan -Vs- Indian Overseas Bank (2019) SCC OnLine SC 257** this Tribunal orders for the liquidation of the Corporate Debtor.

5. Learned Counsel for the Resolution Professional submitted that the resolution passed by the CoC approving the RP to act as a Liquidator is also filed along with the typed set and that the written consent have also been placed on record at Page No.8 of the Typed Set filed along with the Application, a perusal of it shows that the RP has given a written consent by the signed letter dated 16/01/2020 to act as a Liquidator of the Corporate Debtor, if appointed by this

Tribunal. In the circumstances, **Subramaniam Aneetha,** IBBI/IPA-001/IP-P00376/2017-2018/10633, is appointed as the Liquidator of the Corporate Debtor to carry out the liquidation process subject to the following terms of the directions.

a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended upto date enjoined upon him.

b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.

c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences in light of the forensic audit report recently as well as his own interesting and file suitable application before this Adjudicating Authority.

d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and to the Insolvency and Bankruptcy Board of India;

e) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory authorities which governs the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.

f) 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 under section 33(5) of the Insolvency and Bankruptcy Code shall commence.

g) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016.

h) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section – 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.

i) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further report as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.

j) Copy of this order be sent to the Financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor, viz., company-in-liquidation.

6. The application stands **disposed of** with the aforesaid terms.

SD

[S. VIJAYARAGHAVAN]
Member (Technical)

SD

[R. VARADHARAJAN]
Member (Judicial)

16/3/2020

TJS

Certified to be True Copy

ASST. REGISTRAR/DEPUTY REGISTRAR
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