

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOCHI BENCH**

**IA (IBC)(Liq.)/2/KOB/2024**

**IN**

**CP(IBC)/56/KOB/2022**

*(Under Section 33 of IBC)*

***In the matter of Sree Sankara Community for  
Ayurveda Consciousness Limited***

**MEMO OF PARTIES:**

**DILEEP KP,**

Resolution Professional of Sree Sankara  
Community for Ayurveda Consciousness  
Limited,

(IP Reg No. IBBI/1PA/IP- 001/IP01310/2018-  
2019/12220), Veluthedath House, Ponnuruni,  
Vytilla PO, Ernakulam, Kerala, 682019

**... Applicant**

**Order delivered on: 31.05.2024**

***Coram:***

**Hon'ble Member (Technical)**

**Shri. Shyam Babu Gautam**

**Hon'ble Member (Judicial)**

**TMT. (Retd.) Justice T Krishna Valli**

***Appearances:***

For the Applicant : Mr. Dileep K.P, RP

**ORDER**

**Per Coram**

1. The present application is filed by Mr. Dileep KP, Resolution Professional (hereinafter referred to as "RP") of Sree Sankara Community for Ayurveda Consciousness Limited (hereinafter

referred to as “Corporate Debtor”) under Section 33 of the Insolvency and Bankruptcy Code, 2016 for passing an order on liquidation of the Corporate Debtor.

2. The facts as narrated in the application and explained by the Learned counsel for the applicant/RP summarised hereunder:
  - i. The Financial Creditor, Kerala Financial Corporation filed an application under Section 7 of the Code for initiation of Corporate Insolvency Resolution Process (hereinafter referred to as the 'CIRP'), against the Corporate Debtor (CD), which was admitted vide order dated 04.05.2023 and the applicant was appointed as the Interim Resolution Professional (IRP) and thereafter as the RP of the corporate debtor on 15.06.2023.
  - ii. It is stated that the CD has claims totalling to Rs. 28,64,49,270/- and secured creditor, Kerala Financial Corporation (KFC) is the sole COC member. It is stated that in response to Form G invitation for EOI issued twice, only one resolution plan from suspended board member was found proper and approved by COC. However, due to failure to provide performance guarantee on time, the plan failed to materialise. It is stated that a disputed claim from EPFO to tune of 121 lakhs against admitted amount of 95 lakhs is pending before this Tribunal. It is stated that CD is functioning and had a revenue of 2 crore in FY ended 31.03.2024.
  - iii. It is stated that CIRP was extended after 330 days ending on 28.03.2024 till 12.05.2024. It is stated that the CoC in its 13<sup>th</sup>

meeting held on 08.05.2024 with 100% voting rights decided to recommend CD for Liquidation. It is stated that the applicant RP has given consent to act as Liquidator and further state that if this Tribunal is not inclined to appoint RP as liquidator, CoC recommends Mr. Rajmohan R, IBBI/IPA-001/IP-P-02331/2020-2021/13517 as the liquidator. It is stated that total CIRP cost amounts to Rs. 31,65,095/- against which Rs. 16,40,111/- remain unpaid to RP by FC for which a separate application is preferred. This application is filed on 13.05.2024.

- iv. The estimated cost of Liquidation, the fees of the Liquidator, or recommendation for sale of CD as going concern does not form part of this application.
3. The Hon'ble Supreme Court in the matter of **K. Sashidhar Versus Indian Overseas Bank & Ors in Civil Appeal No. 10673 of 2018** has held that the commercial decision of CoC is non-justifiable. In this case, it is seen that CoC with a 100% majority has passed the resolution seeking liquidation of the Corporate Debtor.
4. Moreover, Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 mandates that the Adjudicating Authority shall pass an order of liquidation where no resolution plan is received before the expiry of the CIRP. Sub-section (2) thereof requires the Adjudicating Authority to pass the liquidation order where the Resolution Professional intimates to the Adjudicating Authority

- the decision of the Committee of Creditors approved by not less than 66% of the voting share to liquidate the Corporate Debtor.
5. We have heard the Learned Counsel for the applicant and perused the materials available on record. On 08.05.2024, the 13<sup>th</sup> meeting of the CoC in its commercial wisdom has decided unanimously to liquidate the Corporate Debtor under Section 33(2) of the IBC, 2016, we are of the opinion that the decision of the CoC should not be interfered with.
  6. In the result, **Sree Sankara Community for Ayurveda Consciousness Limited**, Corporate Debtor is ordered to be **liquidated**.
  7. The CoC also passed the resolution to appoint the present RP/Applicant Mr. Dileep KP, to act as liquidator of the CD during the liquidation process. However, as per IBBI vide its circular number Liq-12011/214/2023-IBBI/840 dated 18/07/2023 in the exercise of its powers conferred under section 34 (4) (b) of the Code, had recommended that an IP other than the RP/IRP may be appointed as liquidator in all the cases where liquidator (read liquidation) order is passed henceforth.
  8. In terms of the above circular of IBBI, we hereby appoint **Mr. Rajmohan R**, having his office at **Rajbhavan, HS 514/12/1 and 175A, Krishnapuram, 6th Street, Ollukkara P O, Krishnapuram Temple, Thrissur, Kerala 680655**, IBBI Reg: **IBBI/IPA-001/IP-P-02331/2020-2021/13517**, email id: **rajmohanip@gmail.com**, as the **Liquidator** of the Corporate

Debtor, **Sree Sankara Community for Ayurveda Consciousness Limited**. The Liquidator is directed to submit his consent to act as Liquidator within 10 days of receipt of this order.

9. The present Resolution Professional is directed to hand over the relevant documents and control of the Corporate Debtor to the newly appointed liquidator forthwith.
10. The Liquidator is directed to forthwith take into his custody all the assets, properties, and actionable claims of the corporate debtor and take necessary steps to ensure the preservation, protection security and maintenance of those properties as provided under section 35(1)(b) & (d) of IBC 2016.
11. The Liquidator is directed to adhere to Section 33(1) (ii) & (iii) and discharge his powers and duties as specified under Section 35 to 41 of IBC, 2016 and meticulously adhere to the Rules and Regulations issued by IBBI in this regard from time to time.
12. Public Notice as contemplated under section 33(1) of the Code shall be issued in one morning, English daily and in one-morning regional language newspapers.
13. All the powers of the Board of Directors of the Corporate Debtor and of its key managerial personnel, shall cease to exist in accordance with Section 34 (2) of the Code. These powers shall henceforth vest in the Liquidator. The personnel of the Corporate Debtor shall extend all assistance and cooperation to the

Liquidator as may be required by him in the Liquidation process of the Corporate Debtor.

14. 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 a 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.
15. 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.
16. In terms of Section 33(1) (b) (iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, Kerala, within whose jurisdiction the Corporate Debtor is registered.
17. The fee of the Liquidator is to be determined as provided under Regulation 4 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation 2016.
18. As per Regulation 13 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016, the liquidator shall submit a preliminary report to the Adjudicating Authority within

75 days from the liquidation commencement date providing various details/information as mentioned in the said regulation.

19. The Registry is directed to send e-mail copies of the order to the party and their learned counsel for information and to take necessary steps.
20. A Certified Copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

**SHYAM BABU GAUTAM**  
**(MEMBER TECHNICAL)**

**T KRISHNA VALLI**  
**(MEMBER JUDICIAL)**

Signed on this, the 31<sup>st</sup> day of May, 2024.

Rohit/LRA