

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

17. I.A. 973/2018

IN

C.P.(IB) -1307(MB)/2017

CORAM: SHRI H. V. SUBBA RAO, MEMBER (J)
MS. MADHU SINHA, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **03.07.2023**

NAME OF THE PARTIES. L & T Finance Limited

V/s.

Global Gallarie Agencies Pvt Ltd.

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Mr. Aniruth Purushothaman, counsel appearing for the applicant is present.

I.A. 973/2018

Heard the arguments of counsel appearing for the applicant and the above
Interlocutory Application is **allowed**. Detail order will follow:

Sd/-
MADHU SINHA
Member (Technical)
//Vitthal//

Sd/-
H. V. SUBBA RAO
Member (Judicial)

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

M.A. 973 OF 2018

Under Section 33(2) of Insolvency &
Bankruptcy Code, 2016

Filed by

Dhiren S Shah

Having registered office at: B-102,
Bhagirathi Niwas, Near Natraj Studio, Sir
M. V. Road, Andheri- East, Mumbai-
400069

..... Applicant / Resolution Professional

In the matter of

C.P. No. 1307 of 2017

L & T Finance Limited

..... Petitioner/FC

V/s.

Global Gallarie Agencies Pvt. Ltd

..... Respondent/CD

Order delivered on: 03.07.2023

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Ms. Madhu Sinha, Member (Technical)

Appearance:

For the Resolution Professional: Mr. Aniruth Purusothaman,
advocate

The above application is filed by Resolution Professional, Mr. Dhiren S Shah seeking liquidation of Global Gallarie Agencies Pvt. Ltd., (hereinafter referred as Corporate Debtor) under Section 33(2) of Insolvency and Bankruptcy Code, 2016 (*hereinafter "IBC, 2016"*) read for the following reliefs:

- a. That this Hon'ble Tribunal be pleased to issue necessary directions to the order liquidation of the present Corporate Debtor in accordance with the Chapter III the Insolvency and Bankruptcy Code, 2016 and allied rules and regulations thereunder;*
- b. That this Hon'ble Tribunal be pleased to appoint present Applicant as liquidator of the Corporate Debtor Company;*
- c. That this Hon'ble Tribunal be pleased to direct issuing of public announcement stating that the Corporate Debtor is in liquidation;*
- d. That this Hon'ble Tribunal be pleased to require the Order passed under this Application to be communicated to the Ministry of Corporate Affairs, Government of India;*
- e. That this Hon'ble Tribunal be pleased to provide cost of the present Application;*
- f. For further reliefs as the Hon'ble Tribunal may deem fit;*

The brief facts of the Application are as follows:

1. It is submitted that an order for initiation of CIRP of the corporate debtor was passed on 5th December 2017 by this Hon'ble Tribunal wherein the bench appointed Mr. Dhiren Shantilal Shah, Insolvency Professional as the Interim Resolution Professional (hereinafter "IRP"). to conduct the Corporate Insolvency

Resolution Process and to manage the affairs of the corporate debtor.

2. It is submitted that the present Application is filed under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (“the Code”) for the purpose of initiating proceedings for liquidation of the Corporate Debtor and to appoint present Applicant/Resolution Professional as liquidator for the Corporate Debtor.
3. It is submitted that the facts and circumstances necessary for the proper appreciation of the present application are as follows:
 - I. Pursuant to a default by the Corporate Debtor in repayment of the dues of the Financial Creditor, the Financial Creditor abovenamed filed the captioned Company Petition under Section 7 of the code.
 - II. Thereafter, vide Order dated 5th December 2017, the Captioned Company Petition was admitted and the Applicant was appointed as the Interim Resolution Professional to carry out various functions and duties under the Code.
 - III. Thereafter, a made a Public Announcement on 15th December 2017, thereby giving notice that this Hon’ble Tribunal has ordered commencement of Corporate Insolvency Resolution Process (“CIRP”) of the Corporate Debtor and further inviting proof of claims by the Creditors of the Corporate Debtor.
 - IV. Pursuant to receiving the proof of Claims, the Committee of Creditors was constituted and the 1st meeting of Committee

of Creditors was convened on 11th January 2018, which was communicated to members of Committee of Creditors.

- V. On 11th January, 2018, the first meeting of COC was convened wherein the IRP was appointed as the RP for the Corporate Debtor. Thereafter various meetings of the COC were held as per the provisions of the Code, on various dates. During the Course of the 8th meeting of COC held on 3rd August 2018, it was resolved that since the Resolution Applicant is not identified till date despite the publication of EOI on 25th June, 2018 and hence the resolution plan is not possible and the only option now was that the Corporate Debtor must be liquidated. It is pertinent to note that the resolution for liquidation was passed by 69.67% of vote in affirmative. The relevant extract from the Minutes of the 8th meeting of the committee of creditors is reproduced as follows:

RP informed the members that after publication of EOI on 25th June, 2018, no EOI is received by RP till last date of submission of EOI. Hence, resolution plan is not possible.

RP recommended that since resolution plan is not possible, now the option remaining is liquidation of the Corporate Debtor.

RP also informed that for filing the liquidation application and getting order for liquidation we have to pay lawyer fee which is required to be approved. The upper cap for the fee is Rs. 25,000/- for the same.

4. It is submitted that the present application clearly shows that despite consistent effort of the Applicant and the members of the COC, the Applicant did not receive any Expression of Interest from any prospective Resolution Applicant.
5. The consent Form from the present Applicant/Resolution Professional to act as a Liquidator is also annexed in this Application.
6. Heard the arguments of the counsel appearing for the Applicant and perused the material available on record. It is observed from the minutes of the 8th COC meeting dated 3rd August 2018 that the COC has, with 69.67% majority, decided to liquidate the Corporate Debtor and relying on the settled principle of law regarding the Commercial Wisdom of the COC, we hereby allow this Miscellaneous Application Number 973 of 2018 by passing the following:

ORDER

- a. The M.A. 973 of 2018 is allowed and liquidation order is passed against the Corporate Debtor Global Gallarie Agencies Pvt Ltd.
- b. **Mr. Dhiren Shantilal Shah**, having Registration No. *IBBI/IPA-001/IP-P00220/2017-18/10419* is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
- c. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.

- d. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- e. The Liquidator appointed under section 34(1) of the Code. Will have all powers of the board of directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the liquidator.
- f. That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.
- g. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.
- h. That 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.
- i. That on having liquidation process initiated, 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.
- j. 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.

With the above directions, this application i.e. M.A. 973 of 2018 is hereby **allowed and disposed of**.

SD/-

MADHU SINHA
MEMBER (TECHNICAL)
---Rajeev kr---

SD/-

H.V. SUBBA RAO
MEMBER (JUDICIAL)