IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH-VI

I.A. No. 894/2021
Connected With IB-1182/(ND)/2018

Under Section 33(2) of the Insolvency and Bankruptcy Code, Read with Regulations of IBBI (Liquidation Process) Regulations, 2016.

In the matter of:

J V RESTAURANTS PRIVATE LIMITED
Registered Office at: 455, JJ Colony,
Sunlight Colony II,
New Delhi- 110014

... *Corporate Applicant/ Corporate Debtor*

And in the matter of:

J V Restaurants Private Limited
(Through its Resolution Professional Mr. Punit Handa)
Address: 1005, Ground Floor,
Sector- 31, Gurgaon- 122001

... Applicant

Coram:
SH. P.S.N. PRASAD, Hon'ble Member (Judicial)
SH. NARENDRA KUMAR BHOLA, Hon'ble Member (Technical)

Counsel for Applicant: Mr. Jaswant Singh, Advocate and Mr. Alok Tripathi, CS

ORDER

Per: P.S.N. PRASAD, MEMBER (JUDICIAL)

Date: 03.09.2021

1. This is an application filed by the Resolution Professional under Section 33 (2) of Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for order of liquidation of the Corporate Applicant, J V Restaurant Private Limited.
2. The facts in brief are that an application for Corporate Insolvency Resolution Process was preferred by Corporate Applicant 'J V Restaurant Private Limited' under Section 10 of the IBC on account of default. The Adjudicating Authority vide order dated 22.10.2019 admitted the said application and appointed Mr. Punit Handa, as the Interim Resolution Professional of the Corporate Debtor.
3. The IRP issued a Public Announcement dated 01.11.2019 under Section 13 and 15 of the Insolvency and Bankruptcy Code, 2016, in daily newspaper 'Jansatta' in Hindi and 'Financial Express' in Prescribed Form A, and invited claims from the creditors of the Corporate Debtor. On receiving the claims, the IRP constituted the CoC consisting of financial

creditors of the Corporate Applicant. On first meeting of CoC held on 28.11.2019, the IRP received claims from financial Creditors and Operational Creditors along with that the IRP was appointed as the Resolution Professional in the first meeting of COC.

4. That the Resolution Professional invited expression of interest from the prospective Resolution Applicants in prescribed Form-'G' and publication was made in 'Financial Express' in English and 'Jansatta' in Hindi on 07.09.2020. The last date of submission of Expression of Interest was decided to be 22.09.2020. That, it was apprised to the CoC members that no interest has been received from any prospective Resolution Applicant till the last date of submission.
5. The Resolution Professional further submitted that at the 6th COC meeting held on 16.02.2021, the COC considered the current status as explained by RP and also discussed about possible options but could not find any way out to absolve Corporate Debtor from Liquidation.

6. The Resolution Professional, in the 6th CoC meeting held on 16.02.2021, apprised the members that till date no Resolution Plan has been received in the instant matter. Thereafter, the CoC members passed the resolution with 100% voting to initiate the Liquidation of Corporate Debtor under section 33(2) of IBC, 2016.
7. The Resolution Professional submitted that the Financial Statements of the Corporate Debtor for the financial year ending on 31.03.2020 were signed in 28.12.2020 by the suspended Directors, statutory Auditors and also by the Resolution Professional for discharging the Power of Board of Directors of the company which has been conferred upon Resolution Professional in terms of Section 17 of the code, has also been duly annexed with the present application.
8. This application has been filed as per the provisions of section 33 of IBC, 2016 of which the relevant sub-section 1 and 2 of section 33 is reproduced hereunder;

"33. (1) Where the Adjudicating Authority, —

a. before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast-track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or

b. rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein, it shall—

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation; and

(iii) require such order to be sent to the authority with which the corporate debtor is registered."

(2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors [approved by not less than sixty-six per cent. of the voting share] to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).

9. This Tribunal in the circumstances taking into consideration the provisions of law as well as on facts is hereby orders for liquidation of the corporate debtor and in the circumstances the corporate debtor is put under Liquidation and the incidence of liquidation to follow, on and from the date of this order in terms of the provisions of IBC, 2016 and more particularly as given in Chapter – III of IBC, 2016 and also in terms of Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 along with the following directions:

   a. Mr. Punit Handa, Resolution Professional holding registration no. IBBI/IPA-002/IP-N00298/2017-18/10857, has given consent to act as the Liquidator vide written communication dated 18.08.2021 and is, therefore, appointed as Liquidator under section 34 of the Insolvency and Bankruptcy code, 2016 read with Regulation 3 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

   b. Mr. Punit Handa is directed to issue Public Announcement stating that the corporate debtor is in liquidation, in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;

c. The Registry is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;

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

e. 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;

f. This order is deemed to be a notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;

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 and in accordance with the relevant regulations.

h. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.

11. Copy of this order be sent to the Corporate Applicant/Corporate Debtor and the Liquidator for taking necessary steps.

12. That the IA/894/(ND)/2021 filed in connection with IB 1182/(ND)/ 2018 is disposed of on aforesaid terms.

-Sd-

(NARENDER KUMAR BHOLA)
MEMBER (TECHNICAL)

-Sd-

(P.S.N. PRASAD)
MEMBER (JUDICIAL)

Ramandeep