

sl NO. 396

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IA/201/2021 in CP(IB)05(BB)/2021

IN THE NATIONAL COMPANY LAW TRIBUNAL

BENGALURU BENCH

IA NO.201/2021

in

CP (IB) 05/BB/2021

(Under Section 33(2) of the IBC, 2016)

In the matter of:

M/s. MITRA TRADING AND EXPORTS PRIVATE LIMITED

V.

M/s. MTM TRADING PRIVATE LIMITED

Date of Order: 17.08.2021

Coram:

Hon'ble SHRI ASHOK KUMAR BORAH, MEMBER (JUDICIAL)

Hon'ble SHRI HEMANT KUMAR SARANGI, MEMBER (TECHNICAL)

Parties/Counsels Present:

... Mr. Joby Chacko

(Resolution Professional)

1. This Application has been filed under Section 33(2) of the I&B Code, 2016 by Mr. Joby Chacko Resolution Professional in the matter of M/s. MITRA TRADING AND EXPORTS PRIVATE LIMITED Versus M/s. MTM TRADING PRIVATE LIMITED for initiation of Liquidation Process of the Corporate Debtor and to appoint the Resolution Professional as the Liquidator of the Corporate Debtor.



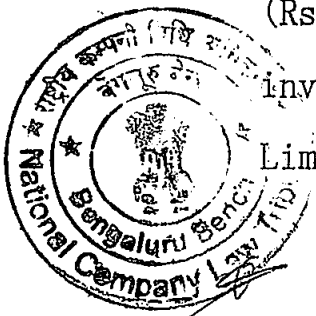
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2. The brief facts are: -

The Tribunal vide order dated 09.03.2021, admitted the application filed by the financial creditor M/s. MITRA TRADING AND EXPORTS PRIVATE LIMITED and initiated Corporate Insolvency Resolution Process (CIRP) and appointed the Applicant, herein as the Interim Resolution Professional to carry out the CIR Process. The Applicant published a public Announcement in Newspapers in Form A and verified the claims received and also formed the Committee of Creditors (CoC).

3. It is also stated that the CoC consisting only one member M/s. Mitra Trading and Exports Private Limited in its 1st meeting appointed the Applicant herein as the Resolution Professional. The Committee of creditors intends to go for Liquidation. The committee has considered the Audited Balance sheet for the FY ending 31.03.2020 and the provisional balance sheet as on 09.03.2021 and the total value of assets available with the company as per the Audited Balance sheet is Rs. 25, 73, 49, 082 (Rupees Twenty-Five Crores Seventy-Three Lakhs Forty-Nine Thousand and Eighty-Two Only) as against the liability of Rs. 113, 11, 77351 (Rupees One Hundred and Thirteen Crores Eleven Lakhs Seventy-Seven Thousand Three Hundred and Fifty-One Only). The major asset (Rs. 24, 81, 60, 000/-) available with the company is an investment in equity shares in Khandepar Investments Private Limited (KIPL) and its holding constitute



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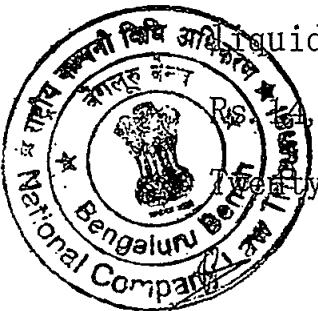
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only 8.75% of the paid-up capital of KIPL. The Corporate Debtor was not doing any business for the last two years and the company does not have any employees. The Committee of Creditors is of the opinion that, there is no way in which the company can be revived. Hence, they are of the opinion to liquidate the Company.

4. It is further stated that applicant appointed registered valuers for determination of fair and Liquidation value of Corporate Debtor. Accordingly, the valuers had submitted their reports, as under: -

Valuation	Valuer 1. (In INR)	Valuer 2. (In INR)
Fair Value	24, 17, 94, 218	23, 70, 22, 913
Liquidation value	14, 66, 52, 933	14, 37, 90, 151

5. It is further stated that, the value of assets is too less to meet the liabilities and also company does not have any kind of assets which can fetch any business and hence cannot expect any possibility of a Resolution Plan. The Liabilities of the Company is Rs.113, 22, 23, 551 (Rupees One Hundred and Thirteen Crore Twenty-Two Lakhs Twenty-Three Thousand Five Hundred and Fifty-One Only) as per the Balance sheet for the financial year ending 31.03.2020 and the liquidation value of the total assets available is Rs. 14, 5221.542/- (Rupees Fourteen Crore Fifty-Two Lakhs Twenty-One Thousand Five Hundred and Forty-Two Only).



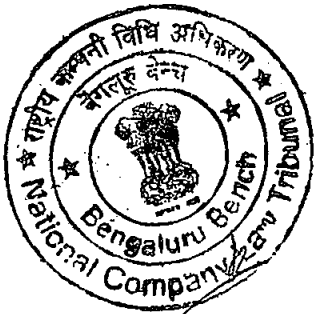
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Therefore, the Committee of Creditors consisting of sole member, ie, M/s Mitra Trading & Exports Private Limited at the meeting held on 28.06.2021 has decided to liquidate the Corporate Debtor and passed the Resolution with 100% voting right to initiate liquidation against the Corporate Debtor and decided to appoint the Applicant herein as the liquidator of the Corporate Debtor.

6. We have heard the learned counsel for the Applicant, through video conferencing and had gone through the records placed before this Tribunal. It appears from the record that there is only one member in CoC who had approved the liquidation of Corporate Debtor with 100% voting right. We have gone through the minutes of the meeting of the Committee of Creditors held on 28.06.2021 in which as item No.8 the following resolution has been passed: -

“RESOLVED THAT pursuant to the provisions of Section 33(2) of the Insolvency and Bankruptcy Code, 2016 and Regulations made thereunder, the consent of the Committee of Creditors be and is hereby accorded to liquidate the Corporate Debtor in view of the fact that, the liability of the company is much greater than the available assets and the company is not doing any business for the last two years and neither have any employees or customers hence no prospect for revival of its business”



“Resolved further that the Committee of Creditors recommended appointment of Mr. Joby Chacko, Insolvency Professional having IBBI Registration Number IBBI/IPA-001/IP P01372/2018-19/12300 as the

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liquidator who has given his consent to carry out the Liquidation Process of the Corporate Debtor. ”

7. Section 33 (2) of the I&B Code, 2016 empowers this Tribunal for ordering Liquidation of the Corporate Debtor. Section 33 (2) of the I&B Code, 2016 is as under: -

“(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 percent 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)”

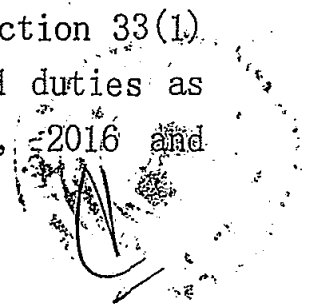
8. In view of the aforesaid provision, the following order is passed: -

O R D E R

- (i) M/s. MTM TRADING PRIVATE LIMITED is hereby put under liquidation with immediate effect under Section 33 (1) of I&B Code, 2016.
- (ii) Shri. Joby Chacko, with Registration No. IBBI/IPA-001/IP-P01372/2018-2019/12300, having address 1002, 10th Floor, #30, Prestige Meridian II M.G Road Bengaluru - 560001 is appointed as the Liquidator of the Corporate Debtor subject to submission of written consent under Section 34 (1) of the I&B Code, 2016 in the prescribed form within a week from the date of receipt of this order.



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



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meticulously adhere to the Rules and Regulations issued by IBBI in this regard from time to time.

- (iv) The Liquidator shall initiate the liquidation process as envisaged under Chapter-II of the Code and the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;
- (v) Whenever the Liquidator issues any publication in the newspapers, the said shall be published in widely circulated newspapers in the State in which the Registered Office of the Company is incorporated.
- (vi) Public Notice shall be issued in two newspapers, viz., one in English and another in Kannada language, stating that the Corporate Debtor is in liquidation, as required in terms of Section 33(1) of the Code;
- (vii) All the powers of the Board of Directors and the key managerial persons of the Corporate Debtor shall cease to exist. All these powers shall henceforth be vested with the Liquidator.
- (viii) 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.
- (ix) 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 proceedings 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.

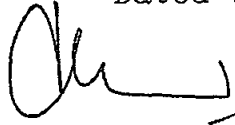


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- (x) This liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.
- (xi) The Deputy Registrar/Court Officer shall forward a copy of this Order to i) the Liquidator and (ii) the Registrar of Companies, Karnataka, immediately upon pronouncement of this Order; for updating the Master Data of the Corporate Debtor.
- (xii) The fee payable to the Liquidator shall be in compliance with Regulation 4 of IBBI (Liquidation Process) Regulations, 2016.

Dated this the 17th day of August 2021



(Hemant Kumar Sarangi)
Member (Technical)



(Ashok Kumar Borah)
Member (Judicial)

CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL

for Deputy/Asst. Registrar
National Company Law Tribunal
Bengaluru Bench