

NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

5, ESPLANDE ROW (WEST), KOLKATA-700001

Tel. No. (033) 2248 5330

Fax No. (033) 2252 1750

Dated: 11/9/19

No. NCLT/KB/19/2470

① Registrar of Companies,
Wigam Palace, 2nd MSO Building,
2nd floor, 234/4, A.F.C.B. Rd,
Kolkata - 700020.

② Insolvency and Bankruptcy Board of India
7th floor, Mayur Bhaswan, Shankar Market,
Connaught Circus, New Delhi - 110001.

Sub: C.P. No. CP (IB) 1159/KB/18 of C.A. No. of I.A. No. of
in the matter of Puja Sharma - Secured Lender LTD

Sir,

I am directed to forward herewith a copy of the order dated 05/9/19
passed by this Tribunal in respect of the above matter, for information / compliance thereof.

Encl: as stated



Yours Faithfully,

[Signature]

Court Officer

National Company Law Tribunal
Kolkata Bench

Asstt Registrar
NCLT Kolkata Bench.

Insolvency and Bankruptcy Board of India

INWARD

Date 16/09/2019 Time 04:08PM

Sign. *[Signature]* Dy. No. 110786

E. Office No. 5754/20.19/CRU-1313

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

C.P. IB No. 1159/KB/2018

In the matter of:

An application under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

And

In the matter of:

Mrs. Puja Sharma, daughter of Mr. Chandra Sekhar Sharma, aged about 31 years, working for gain at 101, Arabinda Road, Golabari, Salkia, Howrah - 711106, WB.

Applicant / Operational Creditor

Versus

In the matter of:

M/s. Setu Vintrade Limited, a Company incorporated under the Companies Act, 1956, having Identification Number U74900WB2011PLC158590, and having registered office at 29A, Weston Street, 3rd Floor, kolkata 700012;

... Corporate Debtor

CORAM: Shri Jinan K.R., Hon'ble Member (Judicial) &
Shri Harish Chander Suri, Hon'ble Member (Technical)

Counsel on Record:

- | | |
|-----------------------------------|--------------------------------|
| 1. Ms. Sudarshana Dutta, Advocate |] For the Operational Creditor |
| 1. Ms. Beena Jajodia, RP |] Resolution Professional |
| 2. Mr. Sourav Jain, Advocate |] |

Date of pronouncing of the Order: 05/09/2019

ORDER

Per Shri Harish Chander Suri, Member (T)

1. This application under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with rule 6 of the Insolvency and Bankruptcy (application to Adjudicating Authority Rules, 2016) has been filed by Puja Sharma, Operational Creditor / Company Secretary against the M/s. Setu Vintrade Limited, a corporate entity having been incorporated and registered with Registrar of Companies, Kolkata, West Bengal on 5th February, 2011. It has an Authorized Share Capital of Rs. 5,00,00,000/- (Rupees Five Crores only) and Paid-up Capital of Rs. 4,80,32,500/- (Rupees Four Crores Eightly Lakhs Thirty-two thousand and five hundred only), hereinafter called the Corporate Debtor.

2. Notice was issued to the Corporate Debtor and Reply, Rejoinder were duly filed and the matter was finally heard and decided on 11th December, 2018. By way of the Order dated 11th December, 2018, this Tribunal had issued Orders for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor, M/s. Setu Vintrade Limited and Ms. Beena Jajodia, Insolvency Professional was appointed as the IRP to perform her duties as Interim Resolution Professional under the Insolvency and Bankruptcy Code, 2016. The RP has submitted that the appointment of the IRP was made as the Resolution Professional on 11th January, 2019. Thereafter, during the pendency of this petition, the IRP filed Six (Six) Progress Reports. Since the period of 180 days was expiring, this Tribunal vide Order dated 19th June, 2019 has extended the period of CIRP for a further period of 90 days.
3. The matter was listed on 29th August, 2019 for submission of Final Report. The RP has submitted the status of the CIRP in her 6 (six) earlier Progress Reports, from time to time to the Tribunal. It is further submitted that during the CIRP, Ten COC Meetings were held, details whereof had been submitted before the Tribunal in the shape of copy of the Minutes. After submission of the 6th Report on 6th August, 2019, the RP has conducted one more COC Meeting on 22nd August, 2019. It is further submitted that the RP has complied with the law and the rules, from time to time.

4. It is further submitted that the RP had appointed One Mr. Sachin Agarwal to conduct the Transaction Audit under Section 43, 44, 50 and 66 of the Insolvency and Bankruptcy Code, 2016 and the Transaction Audit Report was submitted by the Auditor on 10th August, 2019 but in that report, no adverse remarks or findings were reported by the Auditor. It is further submitted that as per the provisions of IBBI (Insolvency Resolution Process for corporate persons) Regulations, 2016, M/s. Engineers and Valuers Collaborated (Financial Assets by M/s Anil Malani & Associates) and Mr. R. N. Dey were appointed for the valuation of Corporate Debtor and the following values were determined by the valuers:

Plant & Machinery and other Movable / Immovable Assets:

Liquidation Value : NIL

Fair market Value : NIL

Financial Assets:-

Name of Valuer	Fair Market Value (Rs.)	Liquidation Value (Rs.)
M/s. Engineers & Valueers Collaborated (Financial Assets by M/s Anil Malani & Associates)	32,78,461.00	32,78,461.00
Mr. R.N. Dey (Financial Assets by M/s KGR & Associates)	46,81,875.00	23,42,851.00
Total	79,60,336.00	56,21,312.00
Average	39,80,168.00	28,10,656.00

5. Thereafter, the matter was placed before the COC Members for ratification of the CIRP cost. The details thereof are as under:

IRP / RP Fees	:	Rs.4,50,000 plus GST
Valuation Fees	:	Rs. 20,000
Publication Cost	:	Rs. 26502
Transaction Audit	:	Rs. 25,000
Miscellaneous Exps	:	Rs. 7500

6. It is further informed that the COC has approved total CIRP cost incurred in its Meeting.

7. As regards Resolution Plan, it is informed that the last date for receipt of Expression of Interest was fixed as 9th August, 2019 but no EOI from any interested party has been received till the closure date and the COC, therefore, has unanimously decided that since there is no available plan for revival of the Corporate Debtor, it was resolved that the application under Section 33 (1) (a) of the Insolvency and Bankruptcy Code, 2016 might be submitted to the Tribunal for directions to initiate liquidation of the Corporate Debtor.

8. In view of the aforesaid unanimous decision of the CoC, a prayer has been made by the RP under Section 33 of the Insolvency and Bankruptcy Code for liquidation of the Corporate Debtor M/s. Setu Vintrade Limited

for the reason of non-receipt of any Resolution Plan to take over the Corporate Debtor, M/s. Setu Vintrade Limited.

9. In this matter, the Order of CIRP Process was passed against Setu Vintrade Limited by an order dated 11.12.2018 of the Tribunal, appointing Ms. Beena Jajodia also as IRP and her appointment was confirmed as Resolution Professional by the Committee of Creditors dated 10.01.2019. A public announcement was made on 23.02.2019 inviting Expression of Interest but in spite of the last date, no Resolution Applicant has submitted any Expression of Interest and no Resolution Plan has been received.
10. In view of the Minutes of the COC dated 22nd August, 2019, unanimously resolving that since there is no Expression of Interest from any prospective Applicant which could be considered by the Resolution Professional and the COC, and as provided under Section 33 (1) (a) of the Insolvency and Bankruptcy Code, 2016, the RP is appointed as the liquidator. We hereby pass the following Orders:

O R D E R S

- i) On careful scrutiny of the Progress Reports filed by the RP from time to time and particularly in view of the fact that, no Expression of Interest or Resolution Applicant has come forward to take over the Corporate Debtor, thus Adjudicating Authority has no other alternative but to pass an Order of liquidation in the manner

as laid down in Part II, Chapter III read with Section 33 (1) of the Insolvency and Bankruptcy Code, 2016.

ii) **Ms. Beena jajodia** is appointed as Liquidator.

iii) The Ld. RP has already given her consent to continue as the Liquidator. The RP is appointed as the liquidator in the present matter and the Liquidator 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.

iv) The Registry is directed to communicate this order to the Registrar of Companies, West Bengal and to the Insolvency and to the Insolvency and Bankruptcy Board of India.

v) 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) and the Insolvency and Bankruptcy Code, 2016 shall commence.

vi) 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.

- vii) Liquidator is directed to proceed with the process of liquidation in a manner laid down in Part II, Chapter III of the Insolvency and Bankruptcy Code, 2016.
- viii) The Liquidator shall submit a Preliminary Report within 75 days from the date of commencement to the Adjudicating Authority as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.
- ix) Copy of this Order be sent to the Financial Creditor, Corporate Debtor and the Liquidator for taking necessary steps.
- x) C.P. (IB) No. 1159/KB/2018 is accordingly disposed of.
- xi) Urgent Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

(Harish Chander Suri)
Member (T)

(Jinān K.R.)
Member (J)

Handwritten signature

Signed on this, the 5th day of September, 2019.

Malay Jana/vc