

received on 4/11/2019

## FREE OF COST COPY

### IN THE NATIONAL COMPANY LAW TRIBUNAL BENGALURU BENCH

I.A.No.559 of 2019 in  
C.P.(IB)No.131/BB/2017  
U/S 60 of IBC, 2016  
R/w Section 33(2) of the IBC, 2016

**Shri Shivadutt Bannanje**  
Resolution Professional of  
M/s.Fortuna Projects (India) Pvt. Ltd  
No.228, Classic Orchids,  
Behind Meenakshi Temple,  
Bannerghatta Road,  
Bangalore - 560 076.

- Applicant/  
Resolution  
Professional

#### In the matter of:

**M/s.Reliance Capital AIF Trustee  
Company Private Limited & Another**

- Petitioners

#### Versus

**M/s.Fortuna Projects (India)  
Private Limited**

- Respondents

**Date of Order: 25<sup>th</sup> October, 2019**

**Coram:** Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)

#### **Parties/Counsels Present:**

For the Applicant/RP : Shri Shivadutt Bannanje

#### **ORDER**

**Per:** Rajeswara Rao Vittanala, Member (J)

1. I.A.No.559 of 2019 in C.P.(IB)No.131/BB/2017 is filed by Shri Shivadutt Bannanje (hereinafter referred to as 'Applicant/Resolution Professional') under Section 60 of the IBC, 2016, R/w Section 33(2) of the IBC, 2016, by inter seeking to



(Signature)

consider the decision taken by the CoC of Fortuna Projects (India) Private Limited in its 3<sup>rd</sup> CoC meeting dated October 17<sup>th</sup>, 2019 for liquidation of the Corporate Debtor on record; to pass such orders and issued further directions, incidental and ancillary to the orders under Section 33(2), as may be necessary for the discharge of the Applicant/Resolution Professional and appointment of Liquidator etc.

2. Brief facts of the case, as mentioned in the Application, which are relevant to the issue in question, are as follows:

(1) The main Company Petition filed by M/s.Reliance Capital AIF Trustee Company Private Limited & Another, under Section 7 of the IBC, 2016, R/w Rule 4 of I&B (AAA) Rules, 2016, was admitted by this Adjudicating Authority vide order dated August 9<sup>th</sup>, 2019 ('Admission Order') by initiating CIRP, appointing Shri Shivadutt Bannanje bearing Registration No.IBBI/IPA-002/IP-N00266/2017-2018/10779) as IRP, imposing moratorium etc. Subsequently, the Committee of Creditors of the Corporate Debtor confirmed the appointment of Shri Shivadutt Bannanje as the Resolution Professional. The Resolution Professional caused Public Announcement in Form A inviting claims from the Creditors of the Corporate Debtor as per Regulation 6 of the IBBI (IRP for Corporate Persons) Regulations, 2016) in Financial Express (English) and Vishwavani (Kannada) on August 16<sup>th</sup>, 2019.

(2) It is stated that Interim Resolution Professional submitted the list of claims received and accepted by him to the Adjudicating Authority on September 6, 2019. The Interim Resolution Professional also formed



*[Handwritten signature]*

a Committee of Creditors as per Section 21 of the Code read with Reg. 17(1) with the sole Financial Creditors i.e. M/s.Reliance Capital AIF Management Company Ltd and M/s.Portfolio Management Clients of Reliance Nippon Life Asset Management Ltd (formerly known as Reliance Capital Asset Management Ltd) PMS Division based on the claims received. The Interim Resolution Professional conducted the First CoC Meeting on September 6<sup>th</sup>, 2019 as per the Reg. 17(2) of the IBBI (IRP for Corporate Persons) Regulations, 2016. In the First CoC Meeting, the members have unanimously passed the Resolution confirming the appointment of the Interim Resolution Professional as the Resolution Professional to complete the Corporate Insolvency Resolution Process of the Corporate Debtor as per Sec 22 (2) of the Insolvency and Bankruptcy Code, 2016.

- (3) Accordingly, a memo was filed under Section 22(3)(a) of the IBC, 2016, with the Adjudicating Authority dated September 11<sup>th</sup>, 2019 confirming the appointment of Interim resolution Professional as the Resolution professional. In the second CoC meeting dated October 9<sup>th</sup>, 2019, the proposal for calling for an Expression of Interest for the Corporate Debtor was placed and discussed and the agenda was deferred to the next CoC Meeting. Further, a third CoC Meeting was conducted on October 17<sup>th</sup>, 2019 in which the matter for an Expression Interest for the Corporate Debtor was discussed and the Committee felt that since the Corporate Debtor has only one Asset i.e. Commercial Building and further no business operations are being carried out by the Corporate Debtor, hence it may not be feasible for someone to propose a Resolution Plan.



Therefore, they are of the considered opinion to liquidate the Corporate Debtor, rather than to wait for any unlikely Resolution Plan. Hence, the Committee has unanimously passed the following Resolution;

**“RESOLVED THAT** the approval of the CoC be and is hereby accorded for initiation of the liquidation of the Corporate Debtor under Section 33(2) of the IBC, 2016, since there are no business operations in the Company except a Commercial building.”

**“FURTHER RESOLVED THAT** the approval of the CoC be and is hereby accorded to the Resolution Professional to not call for an expression of Interest/Resolution Plan for the Corporate Debtor since there are no business operations in the Company”.

**“RESOLVED FURTHER THAT** Mr. Shivadutt Bannanje, Resolution Professional be and is hereby authorized to file necessary application before the Hon’ble National Company Law Tribunal, Bengaluru Bench to give effect to this Resolution and further seek for Direction and order under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 from the Hon’ble Tribunal, Bengaluru.”

**“RESOLVED THAT** Shri Shivadutt Bannanje, Resolution Professional having registration number IBBI/IPA-002/IP-N00266/2017-18/10779, having its office at Manipal Centre, S-709, South Block, 47 Dickenson Road, Bangalore – 560042, email ID – [ip.shivaduttb@gmail.com](mailto:ip.shivaduttb@gmail.com) be and is hereby proposed to be appointed as liquidator and authorized to file application for initiation of liquidation of the Corporate Debtor with the Hon’ble National Company Law



*(Handwritten signature)*

Tribunal, Bengaluru Bench and to do all such acts, deeds and things connected thereto. Further the liquidator has expressed his willingness for the appointment and also given his consent for the same.”

3. Heard Shri Shivadutt Bannanje, learned Resolution Professional. I have carefully perused the pleadings of the party and extant provisions of the Code and the Rules made there under.
4. As detailed supra, the Resolution Professional and the CoC of the Corporate Debtor, have made best assessment of assets of the Company and found there would be no possibility of getting any resolution plan. Therefore, the Applicant is justified to file the instant application, which is filed in accordance with law. And the Resolution to initiate liquidation process of Corporate Debtor was also approved by the CoC and further decided to continue the RP as a Liquidator, who is eligible to be appointed as such; he has also filed a written consent to act as Liquidator of the Corporate Debtor i.e. M/s.Fortuna Projects (India) Private Limited, U/s 34(1) of the IBC, 2016, by inter alia declaring that he is registered with the Board as an Insolvency Professional; he is eligible to be appointed as an Independent Director on the Board of the Corporate Debtor under Section 149 of the Companies Act, 2013 (18 of 2013), where the Corporate Debtor; he is not related party of the Corporate Debtor etc. Therefore, the instant application deserves to be allowed.
5. In view of the above facts and circumstances of the case, the Adjudicating Authority, by exercising powers conferred U/s 33(2) of the Code. I.A.No.559/2019 in C.P.(IB)No.131/BB/2017 is hereby disposed of with following directions:
  - a) It is hereby ordered that M/s.Fortuna Projects (India) Private Limited, Corporate Debtor to be liquidated in the



*(Signature)*

manner as laid down in Chapter III Liquidation process of the Code, and appointed Shri Shivadutt Bannanje as a Liquidator, subject to the terms and conditions to be agreed upon by the parties in the light of extant provisions of the IBBI. And directed the Liquidator to issue immediate public announcement by stating that the Corporate Debtor is in liquidation.

- b) The Registry is directed to communicate this order to the Registrar of Companies, Karnataka for information and necessary action.
- c) The liquidator is directed to strictly adhere to the extant provisions of the Code and the Rules made there under framed by the IBBI from time to time and also directed to take expeditious steps to complete the liquidation process in the light of various orders.
- d) Post the case for report of Liquidator on **25.11.2019**

Puja



*(Signature)*  
**(RAJESWARA RAO VITTANALA)**  
**MEMBER, JUDICIAL**

**CERTIFIED TO BE TRUE COPY  
OF THE ORIGINAL**

*(Signature)*  
Deputy Registrar  
National Company Law Tribunal  
Bengaluru Bench

*(Signature)*  
Swapna.C