IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

IA(IBC)/450(KB)2022
in
CP(IB)/96(KB)2021

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

In the matter of

Oval Distributors Private Limited

...Financial Creditor

Versus

Royalpet Vanijya Private Limited
(CIN: U51909WB2012PTC189048)

...Corporate Debtor

And

In the matter of

Mr. Sudipto Ghosh,
Resolution Professional of Royalpet Vanijya Private Limited

… Applicant

Order reserved on: 23/05/2022

Order pronounced on: 27/06/2022

Coram:

Shri Rohit Kapoor	:	Member (Judicial)
Shri Harish Chander Suri	:	Member (Technical)

Appearances (through video conferencing):

For the Applicant	:	Ms. Pallavi Ray, Adv. Mr. Sudipta Ghosh, RP in person

O R D E R

Per: Rohit Kapoor, Member (Judicial)

1. This Tribunal convened physically/through video conference.

2. IA(IBC)/450(KB)2022 is an application filed by the Resolution Professional of Royalpet Vanijya Private Limited, the Corporate Debtor, on the ground that no resolution plan has been received by him, in spite of publication of Form 'G' twice, for liquidation of the Corporate Debtor.

3. This Adjudicating authority *vide* order[1] dated 01/12/2021 in CP(IB)/96(KB)2021 had ordered initiation of CIRP against the Corporate Debtor and appointed Mr. Sudipta Ghosh as the Interim Resolution Professional. Public Announcement in Form A was made and Committee of Creditors was constituted. Interim Resolution Professional was confirmed as the Resolution Professional of the Corporate Debtor at the first meeting[2] of the Committee of Creditors held on 31/12/2021. Form 'G' was published in "*Financial Express*" (English) and "*Ekdin*" (Bengali) inviting Expression of Interest from prospective resolution applicants on 14/02/2022. No Expression of Interest was received within the stipulated extended date.

4. The Committee of Creditors at its 4th meeting has decided to re-issue Form "G" again. Accordingly, Form 'G' was again published in "*Financial Express*" (English) and "*Ekdin*" (Bengali) inviting Expression of Interest from prospective resolution applicants on 23/03/2022. However, the Applicant did not receive any Expression of Interest within the stipulated time, i.e., 07/04/2022.

5. Since no Expression of Interest was received and the 180 days CIRP period is

[1] Annexure "A" at pages 23 to 31 of the application
[2] Annexure "B" at pages 32 to 40 of the application

expiring on 29/05/2022, the Committee of Creditors at its 5th meeting[3] held on 05/05/2022 has passed a resolution unanimously to liquidate the Corporate Debtor, recommending appointment of the Applicant as the Liquidator of the Corporate Debtor.

6. The Resolution Professional has given his consent[4] to act as a Liquidator of the Corporate Debtor along with Authorisation of Assignment valid till 07/03/2023.

7. Section 33(1)(a) of the Code mandates that the Adjudicating Authority shall pass an order of liquidation where no resolution plan is received before the expiry of the CIRP. Sub-section (2) thereof requires the Adjudicating Authority to pass the liquidation order where the Resolution Professional intimates to the Adjudicating Authority the decision of the Committee of Creditors approved by not less than 66% of the voting share to liquidate the Corporate Debtor.

8. Reading these two provisions together, this Adjudicating Authority is left with no option but to order liquidation of the Corporate Debtor.

9. This Bench, therefore, hereby orders as follows: -

a. IA(IBC)/450(KB)2022 filed by Mr. Sudipta Ghose, RP of **Royalpet Vanijya Private Limited**, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;

b. **Mr. Sudipta Ghosh [Reg. No. IBBI/IPA-001/IP-P00484/2017-18/10872]**, is hereby appointed as Liquidator as provided under section 34(1) of the Code, subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of

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[3] Annexure “C” at pages 41 to 48 of the application
[4] Annexure “D” at pages 49 to 51 of the application

which he is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019.

c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, *i.e., "Financial Express"* (English) and "*Ekdin"* (Bengali) of Kolkata edition of the said newspapers stating that the Corporate Debtor is in liquidation.

e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.

f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

g. 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 proceeding 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.

h. In accordance with section 33(7) of the Code, 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.

i. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, Kolkata, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.

10. The application bearing **IA(IBC)/450(KB)2022** shall stand disposed of in accordance with the above directions.

11. **CP(IB)/96(KB)2021** to come up for filing of periodical report on **14/09/2022.**

12. A copy of this order shall also be sent to the IBBI for information.

13. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.

14. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Harish Chander Suri
Member (Technical)

Rohit Kapoor
Member (Judicial)

Signed this, 27th day of June, 2022.

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