BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1

IA 453 of 2020 in CP (IB) No. 597/7/NCLT/AHM

Coram: Hon'ble Mr. MADAN BHALCHANDRA GOSAVI, MEMBER (JUDICIAL)
Hon'ble Mr. VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE NATIONAL COMPANY LAW TRIBUNAL , AHMEDABAD BENCH ON 09.09.2020

Name of the Company:

Mr. Atul Mittal Resolution Professional
(Riddhi Siddhi Cotton Ginning & Pessing Pvt. Ltd.)
V/s
CoC of
(Riddhi Siddhi Cotton Ginning & Pessing Pvt. Ltd.)

Section: Section 33 the Insolvency & Bankruptcy Code, 2016

ORDER

The case is fixed for pronouncement of order.

The Order is pronounced in the open court, vide separate sheet.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Dated this the 9th day of September 2020.

vc

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT -I

I.A. No. 453 of 2020
IN
CP(IB) No. 597/7/NCLT/AHM /2018

In the matter of :

[An Application filed under Section 33 of the Insolvency & Bankruptcy Code, 2016 ("IB Code/Code") for initiation of liquidation proceedings of the "Corporate Debtor"]

In the matter of :

Mr. Atul Mittal
Resolution Professional of
Riddhi Siddhi Cotton Ginning & Pessing Pvt. Ltd.
having address at:
174, Balco Apartments,
Plot No. 58-IP Extension,
Delhi-110092 ... Applicant/RP

Versus

Committee of Creditors of
Riddhi Siddhi Cotton Ginning & Pessing Pvt. Ltd.
Bank of Baroda, Jagnath Plot Branch,
Dr. Yagnik Road, Rajkot-360001 ...Respondent/ Corporate Debtor

Date of Pronouncement of Order 9th September, 2020

Coram: MADAN B GOSAVI, MEMBER(J)
VIRENDRA KUMAR GUPTA,MEMBER (T)

Appearance:

Learned Counsel Mr. Ketan M. Parikh for the Bank.
Mr. Atul Mittal Resolution Professional present in person.

ORDER

[Per: VIRENDRA KUMAR GUPTA, Member (T)]

1. The present Interlocutory Application is filed by the Resolution Professional seeking for passing an Order of liquidation under Section 33(1), 33(2) & 34(1) of the Insolvency & Bankruptcy Code,2016, of the Corporate Debtor Company.

2. The relevant facts are that :

    I. This Adjudicating Authority admitted Corporate Debtor in to Corporate Insolvency Resolution Process vide its order dated 13.01.2020 and appointed the Applicant as "IRP" and he made the Public announcement inviting claims of the Creditors as required under Insolvency & Bankruptcy Code, 2016.

    II. The last date for submission of claim was fixed on 08.02.2020. The Committee of Creditors was constituted on 10.02.2020 and report was filed. Thereafter, constitution of Committee of Creditors was revised on 17.06.2020.

    III. The First Meeting of Committee of Creditors was held on 17.02.2020 and IRP Mr. Atul Mittal was appointed as Resolution Professional.

IV. The Second Meeting of Committee of Creditors was held on 18.02.2020. Form-G was published, on 19.02.2020 for inviting Expression of Interest (hereinafter referred to as "EOI").

V. Third Meeting of Committee of Creditors was held on 11.03.2020, wherein, it was informed that no EOI has been received. The Committee of Creditors passed Resolution with 100% voting to initiate Liquidation Process against the Corporate Debtor and Resolution Professional was Authorised to file the Application before this Adjudicating Authority under Section 33 of the Insolvency & Bankruptcy Code, 2016.

VI. On behalf of the Applicant, our attention was drawn to the revised Form-H and in particular to Clause 15A, 15B and 15C containing the details of costs of Liquidation. Our attention was also drawn to Resolution passed by the Committee of Creditors under ***Section 39C of the IBBI (INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) REGULATIONS, 2016.*** It was also pointed out that as per the Regulation 39D fees of the Liquidator has been fixed at the rate of 0.55% of the amount realised. Based upon this, it was prayed that the Liquidation order be pass.

VII. We have considered the submissions made by the Learned Resolution Professional. Admittedly, no EOI has been received by the Resolution Professional. The Committee of Creditors has passed resolution to liquidate the Corporate Debtor and which is reproduced as under:

" ITEM No. C3

TO DISCUSS AND APPROVE THE INITIATION OF LIQUIDATION PROCESS OF THE Corporate Debtor UNDER SECTION 33(2) OF THE Insolvency & Bankruptcy Code, 2016

The Chairman apprised the CoC that the entire efforts and steps taken for the Insolvency Resolution Process of the Corporate Debtor were discussed in the Agenda Item No. A6 and despite the concerted efforts, no resolution could happen in the matter.

Further, upon discussion the members of the Committee were of the view that since no valid EOI received for the Insolvency Resolution Process of the Corporate Debtor within the prescribed time-period the CoC directed to the Resolution Professional to initiate the process for liquidation of the Corporate Debtor and to file the necessary application before the Hon'ble Adjudicating Authority and do the compliances as per the amended provisions of IBC,2016 and Regulations made thereunder.

The Chairman informed the Committee that he would be filing application before this Hon'ble National Company Law Tribunal for seeking directions for liquidation of the Corporate Debtor.

Thereafter, the following resolution was placed before the Committee for their consideration;

"RESOLVED THAT pursuant to section 33(2) and other applicable provisions, if any, of the Insolvency & Bankruptcy Code, 2016, approval of the Committee of Creditors of Riddhi Siddhi Cotton Ginning and Pessing Pvt. Ltd. for the initiation of the liquidation process of the Corporate Debtor, be and is hereby accorded.

RESOLVED FURTHER THAT Committee of Creditors be and is hereby authorising the Resolution Professional to fiel the application before Hon'ble

National Company Law Tribunal, Principal Bench, New Delhi under Section 33 of the Insolvency & Bankruptcy Code, 2016 and Regulations made thereunder".

The item was approved by 100% voting by the only CoC member".

VIII. In view of the above, we are of the considered opinion that the Liquidation order is required to be passed in the facts and circumstances of the case. Accordingly, we pass order of liquidation in the following manner.

ORDER

1. We hereby pass the order of liquidation of the Corporate Debtor Ms/. **M/s. Riddhi Siddhi Cotton Ginning and Pessing Pvt. Ltd.** and consequently allow IA No. 453 of 2020. The Liquidation of the Corporate Debtor is effective from the date of this order.

2. The Moratorium declared vide order dated 13.01.2020 in CP(IB) No.597/7/NCLT/AHM/2018, henceforth, ceases to exist.

3. As per the Section 34(1) of the I.B. Code, the Applicant/ Resolution professional, **Mr. Atul Mittal, (Registration No. IBBI/IPA-001/IP-P00439/2017-18/10762), email-ID: a.mittalmc@gmail.com, is hereby appointed as a 'Liquidator'** of the company **M/s. Riddhi Siddhi Cotton Ginning and Pessing**

Pvt. Ltd. having CIN No. U17110GJ2006PTC047981 which has been duly approved by CoC in its 3rd meeting dated 11.03.2020.

4. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter cease to exist. All these powers henceforth, vest with the Liquidator.

5. The personnel(s) 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. Further, the liquidator shall also provide all co-operation to various Government Agency(s)/Authority(s) in ongoing investigations/inquiry or inquiries initiated hereafter.

6. The Liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.

7. That once having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal

proceedings shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suite or other legal proceeding on behalf of the corporate debtor with prior approval of this Adjudicating Authority as mentioned in Sub-Section 6 of Section 33 of the I.B. Code.

8. The Liquidator shall take necessary legal action to recover the trade receivables and other credits such as loans and advances from the parties which are reflected in the latest balance sheet of the Corporate Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed under Section 33(5) of the Code.

9. This liquidation order shall be a deemed to be 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.

10. The Registry is directed to upload this order on the Official Website within maximum two working days from the date of this order. The authenticated copy of this order also be sent by the registry to the Financial Creditor, Corporate Debtor, Registrar of the Company,

Resolution Professional cum Liquidator by Speed-post within one week from this order.

11. **Accordingly, I.A. No. 453 of 2020 along with main CP(IB) No. 597 of 2018 stands disposed of.**

9/9/2020
(VIRENDRA KUMAR GUPTA)
MEMBER (T)

9/9/2020
(MADAN B GOSAVI)
MEMBER (J)

Signed on this, the 9th September, 2020

vc