IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 146

IA/388(AHM)2021 in CP(IB) 507 of 2018

Order under Section 33(1),33(2),34(1), IBC, 2016

IN THE MATTER OF:

Vineeta Maheshwari RP of FNL AAC Block Pvt Ltd .....**Applicant**
V/s
Rayamand Adil Shethna & Anr .....**Respondent**

Order delivered on ..21/09/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant :
For the IRP/RP :
For the Respondent :

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-II

IA/ 388(AHM) 2021 in
C.P.(IB) 507/NCLT/AHM/2018

[An Application under Section 33(1), 33(2) & 34(1) of the Insolvency and Bankruptcy Code, 2016]

In the matter of:

Ms. Vineeta Maheshwari,
RP of M/s FNL AAC Block Pvt. Ltd.,
JLN US & Co.,
M-19, Metro Tower,
Nr. Kinnari Cinema, Ring Road, Surat. .... Applicant

Versus

1. Shri Rayomand Adil Shethna,
Suspended Board of Director,
M/s FNL AAC Block Pvt. Ltd.,
12-1134, Faramroz Abad,
3rd Floor, VankiBoardi, Shahpore,
Surat-395003.

2. Shri Firuzi Rayomand Shethna,
Suspended Board of Director,
M/s FNL AAC Block Pvt. Ltd.,
12-1134, Faramroz Abad,
3rd Floor, VankiBoardi, Shahpore,
Surat-395003. ...Corporate Debtor

Order reserved on 20th September, 2021
Order delivered on 21st September, 2021

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

Appearance...

For the Applicant : Advocate, Mr. Karan Sanghani a.w. RP, Ms. Vineeta Maheshwari

ORDER

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

1) Through this application RP is seeking an order from this Adjudicating Authority for initiating liquidation process of the Corporate Debtor.

2) The Corporate Debtor was admitted into CIRP vide order of this Bench dated 24.07.2020. The IRP was appointed who became RP. The RP conducted the CIRP as per Regulations. Form G was published on 05.10.2020. No substantial progress was made as far as EOI is concerned. Extension of 90 days was given by this Adjudicating Authority in an

application filed under Section 12 of IBC, 2016 on 02.02.2021. Form G was republished. Some EOIs were received. Provisional list of prospective Resolution Applicants was submitted with the COC and final list was also provided to all prospective Resolution Applicants after finalizing the list as per the direction of the COC. Meanwhile, extended CIRP period also expired which was further extended by this Adjudicating Authority on 04.05.2021. COC also extended time to submit resolution plans. One resolution plan was received. The resolution plan could not be opened as the Resolution Applicant did not share the password. The Resolution Applicant also did not furnish the bid submission bond/guarantee as per the terms of RFRP. Accordingly, in these circumstances, in 7th meeting of COC held on 07.05.2021, the resolution for initiation of the liquidation of the Corporate Debtor was passed.

3) Learned counsel, Mr. Karan Sanghani appeared on behalf of RP and narrated these basic facts and drew our attention to

all requisite resolutions passed by the COC in its meeting as mentioned hereinbefore.

4) We have also perused the resolutions which have been passed and it is noted that the COC has also resolved to sale the Corporate Debtor as a going concern as per Regulation 32(e) of IBBI (Liquidation Process) Regulations, 2016 with 100% voting. Other requirements i.e. fee of Liquidator as well as contribution in case of proceeds may less than the CIRP as well as liquidation cost has been passed by the COC. It has been proposed that present RP shall act as Liquidator whose consent is also on record.

5) Considering the facts of the present case, we are of the considered view that the initiation of liquidation process is warranted. The present RP has been proposed to act as Liquidator who has also given his consent to act as such. Accordingly, we appoint him as Liquidator.

6) In the result, we initiate the liquidation process in the case of Corporate Debtor and pass following order:

ORDER

i. We pass the order for initiation of liquidation of Corporate Debtor in terms of provision of Section 33(1) of IBC, 2016 read with regulations made there-under which shall be effective from the date of this order.

ii. As per the Section 34(1) of the I.B. Code, the Applicant/ Resolution professional, Ms. Vineeta Maheshwari **(Registration No. IBBI/IPA-001/IP-P00185/2017-2018/10364), is hereby appointed as a Liquidator of the company M/s. FNL AAC Block Pvt. Ltd.**, which has been duly approved by COC in its seventh meeting, dated 07.05.2021.

iii. 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.

iv. The personnel(s) of the Corporate Debtor are directed to extend all co-operations to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

v. 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.

vi. That once liquidation process initiated, by virtue of 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 suit 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.

vii. The Liquidator shall co-ordinate with all the authorities and the respected Government Authorities and shall provide complete information to facilitate the process of Liquidation.

viii. The Liquidator is at liberty to seek any directions, if need be from this Tribunal during the Liquidation Process.

ix. 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.

x. 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.

xi. The Moratorium declared vide order dated 24.07.2020 in CP (IB) No. 507/NCLT/AHM/2018, henceforth, ceases to exist. However, provision of Section 33(5) of IBC, 2016 shall continue to operate till the liquidation/dissolution shall be applicable as regard to suit or other legal proceeding instituted by or against the Corporate Debtor. The liquidator shall also comply with the requirements of this section in the circumstances specified therein.

xii. The present I.A. No. 388 of 2021 is allowed directing the appointed Liquidator to initiate and complete liquidation process as envisaged under Chapter – III of the Code by following the liquidation process as specified in the Insolvency and Bankruptcy Board of India (liquidation process) Regulations, 2016.

xiii. 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 be also sent by the registry to the Financial Creditor, Corporate Debtor, Registrar of the Company, Resolution Professional come Liquidator by Speed-post within one week from this order.

7) Accordingly, the present I.A. No. 388 of 2021 is allowed and stands disposed of.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Abhishek