THE NATIONAL COMPANY LAW TRIBUNAL
COURT NO. III
AT NEW DELHI

IA No. 5533/2021
IN
Company Petition No. (IB)-1718(ND)/2019

In the matter of:

Mr. Kedarram Ramratan Laddha

(Resolution Professional of M/S Hi Rise Infratech Pvt Ltd.) **...Applicant**

And In the matter of

Meena Sakariya Proprietor of

M/S MR Industrial Services

...Operational Creditor

Versus

M/S HI Rise Infratech Pvt Ltd. **...Corporate Debtor**

Under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 for liquidation of the corporate debtor

Delivered on: ***07.12.2021***

Coram:

SHRI BACHU VENKAT BALARAM DAS

MEMBER (JUDICIAL)

SHRI NARENDER KUMAR BHOLA

MEMBER (TECHNICAL)

For Resolution Professional: Mr. Kedarram Ramratan Laddha

ORDER

SHRI BACHU VENKAT BALARAM DAS, MEMBER(J)

1. This is an application filed by the Resolution Professional under Section 33 (1) of Insolvency and Bankruptcy Code, 2016 (**hereinafter referred as the "Code")** for issuance of directions for liquidation of the corporate debtor, M/S Hi Rise Infratech Pvt Ltd.

2. The facts in brief are that the operational creditor, Meena Sakariya Proprietor of M/S MR Industrial Services had filed an application bearing no. IB 1718(ND)/2019 under Section 9 of the Code for initiation of Corporate Insolvency Resolution Process against the corporate debtor. The said application was admitted by this Tribunal vide order dated 21.01.2020 and Mr. Kedarram Ramratan Laddha appointed as Interim Resolution Professional (IRP).

3. The applicant submits that after being appointed as the IRP, the Applicant issued a Public Announcement under regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016, thereby inviting Claims of the Creditors of the Corporate Debtor. Thereafter, the applicant formed the COC by collating the claims so received against the corporate debtor. The IRP was appointed as RP in the first COC meeting held on 20.04.2021. It is submitted that the applicant had intimated about all the COC meetings upon the corporate debtor, however none of the meetings ever came to be attended by the corporate debtor.

4. The applicant submits that the Suspended management and statutory Auditor of the Corporate Debtor were not co-operating with the present Applicant/RP, so ultimately the present Applicant has preferred an Interlocutory Application no.

3556/2021 u/s 19(2) of the Code against the suspended management and statutory Auditor of the Corporate Debtor. The said I.A. is pending adjudication before this bench.

5. The applicant submits that due to non -cooperation from the Suspended Management and key managerial employees of the Corporate Debtor and also due to the outbreak of Second wave of Coronavirus Pandemic present Applicant had also preferred one Interlocutory Application no. 3522/2021 u/s 12 of the I.B extension of the period of CIRP till 31/10/2021. The said I.A was allowed by the bench vide order dated 04.10.2021.

6. The COC in its sixth meeting held on 09.10.2021 has resolved that as the physical and location of stock is not available and also the company have not carried out any major business activity since last three years, the sole Financial Members of COC has resolved not to publish Expression of Interest and invite Resolution Plans for the Corporate Debtor but rather liquidated the Corporate Debtor.

7. The COC in the sixth meeting has resolved that as there seems no realistic chance of revival of the Company. The COC has resolved to Liquidate the Corporate Debtor.

8. The applicant further submitted before this bench that the RP has informed the COC as due to preoccupancy in other assignments of CIRP already going on with the RP, the RP is not in a situation to undertake Liquidation process of the Corporate Debtor.

9. The CIRP of 180 days in the present matter has expired on 02.08.2021 and an extension was granted by this bench for further 90 days, completing 270 days of CIRP that is till 31.10.2021, and due to non-running of any business activity of the

corporate debtor for last there years, under section 12(1) of IBC, 2016 the only option left is liquidation mode as provided under the provisions of section 33 of IBC, 2016 of which the relevant sub-section 1 of section 33 is reproduced hereunder;

"33. (1) Where the Adjudicating Authority, —

(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or

(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein, it shall—

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation; and

(iii) require such order to be sent to the authority with which the corporate debtor is registered."

10. This Tribunal in the circumstances taking into consideration the provisions of law as well as on facts is constrained to order for liquidation of the corporate debtor and in the circumstances the corporate debtor stands liquidated and the incidence of liquidation to follow, on and from the date of this order in terms of the provisions of IBC, 2016 and more particularly as given in Chapter – III of

IBC, 2016 and also in terms of Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 along with the following directions:

a. Mr. Mahesh Agarwal Resolution Professional holding registration no. IBBI/IPA-001/IP-P01995/2020-21/ 13087, is appointed as Liquidator and should give its consent to act as the liquidator, under section 34 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

b. Mr. Mahesh Agarwal further 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;

c. The Registry is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;

d. In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. Similarly, in relation to other fiscal and regulatory authorities which governs the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation

e. 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) of the Insolvency and Bankruptcy Code shall commence;

f. 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;

g. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant regulations.

h. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.

i. Copy of this order be sent to the operational creditor, corporate debtor and the Liquidator for taking necessary steps.

j. I.A. 5533(ND) /2021 is disposed of in the aforesaid terms.

-S-d.

(BACHU VENKAT BALARAM DAS)

MEMBER (Judicial)

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(NARENDER KUMAR BHOLA)

MEMBER (Technical)