THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

I.A. 728 OF 2020

Under Section 33 of Insolvency & Bankruptcy Code, 2016

Rajender Kumar Girdhar

Resolution Professional/

…Applicant

In the matter of

C.P.(IB) No. 426/MB/2019

Bank of Baroda

Financial Creditor

Vs.

Trump Impex Private Limited

Corporate Debtor

Order delivered on: 21/03/2023

Coram:

Mr. Prabhat Kumar
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant/RP : Mr. Akshay Deshmukh, Advocate

ORDER

Per: Prabhat Kumar, Member (Technical)

1. The above application I.A. No. 728/2020 is filed by Resolution Professional, Mr. Rajender Kumar Girdhar (hereinafter referred to as the "Applicant") seeking liquidation of Trump Impex Private

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Limited (hereinafter referred to as the "Corporate Debtor") under Section 33 (1) of the Insolvency and Code, 2016 (hereinafter called as "the Code").

2. The brief facts of the application are as follows:

   a. The Applicant mentions that this Tribunal vide its order dated 27.06.2019 in Company Petition No. 426/IBC/MB/2019 admitted the petition under Section 7 of the Code, filed by Dena Bank now merged with Bank of Baroda (hereinafter referred to as the "Financial Creditor") and Corporate Insolvency Resolution Process (hereinafter referred to as the "CIRP") was initiated against the Corporate Debtor. The Applicant was appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal.

   b. Ld. Counsel for the Applicant submits that pursuant to the publication of FORM-G, the Resolution Professional received requests from the two interested parties i.e. from ANA ARC Private Limited and Luvkush Corporation Pvt. Ltd., however, no response was received from the interested parties for submitting proposed Resolution Plan till last date.

   c. In the interest of resolution of the Corporate Debtor, the Applicant vide email dated 28.11.2019 requested the members of CoC to extend the last date for submission of EOI by 15 days. However, the same was not approved by two members viz. Union Bank of India and Axis Bank Limited.

d. The Applicant also submits that in the 4th CoC meeting, the members of CoC had proposed for extension of the Corporate Insolvency Resolution Process by 90 days beyond 180 days, however, the same was not approved by them during e-voting that concluded on 21.02.2020.

e. Therefore, in the fourth CoC meeting held on 18.02.2020, the CoC with 100% voting passed a resolution for liquidation of the Corporate Debtor. The relevant portion of the resolution is as under: -

> ***"RESOLVE THAT, pursuant to Section 33, sub section (1)(a) of Insolvency and Bankruptcy Code, 2016 and other applicable provisions, if any, of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, ("Liquidation Process Regulations") Committee of Creditors is hereby approves that M/s Trump Impex Private Limited, ('Corporate Debtor') be liquidated, in the event the resolution for extension of Corporate Insolvency Resolution Process period of the Corporate Debtor by 90 days beyond 180 days is not approved by the Committee of Creditors of Corporate Debtor."***

3. The Applicant in the 4th CoC meeting expresses his unwillingness to act as the Liquidator of the Corporate Debtor due to his other pre-

occupations. No name has been proposed in the application to act as liquidator .

4. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, this bench is of the opinion that the Corporate Debtor is required to be liquidated in the manner as laid down in the IBC 2016.

5. That I.A. 2079/2020, filed by the Resolution Professional u/s 45 and 66 of the Code for avoidance of certain fraudulent and preferential transactions and the same is pending for adjudication before this Tribunal.

6. We have heard the counsel and perused the material available on record. We feel that no resolution seems feasible in this case, accordingly, this is fit case for Liquidation of the Corporate Debtor in terms of Section 33 of the Code.

ORDER

7. The I.A. No. 728/2020 is allowed and the Corporate Debtor Trump Impex Private Limited is ordered to be liquidated as a going concern in the first attempt and if it fails, then sale by all other methods, as prescribed under the Code, shall be taken.
   a. Mr. Atul Tansukhlal Mehta, having Registration No. IBBI/IPA-001/IP-P01020/2017-2018/11670, email mehtaatul@gmail.com, Mobile-9869084311 is hereby

appointed as the Liquidator as provided under Section 34(1) of the Code.

b. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.

c. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

d. The Liquidator appointed under section 34(1) of the Code. All powers of the board of directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the liquidator.

e. That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.

f. That the personnel 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.

g. That on having liquidation process initiated, 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

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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.

h. This liquidation order u/s 33(7) 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. The liquidator shall pursue the Interlocutory Application I.A. 2079/2020 in relation to avoidance transactions pending before this Bench.

With the above directions, the I.A. No.3714/2022 filed u/s 33 (1) by the applicant is hereby **allowed** and disposed of.

Sd/-

PRABHAT KUMAR
Member (Technical)

Sd/-

KISHORE VEMULAPALLI
Member (Judicial)

/NP/