

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH
M.A. 607/2017
C.P. NO.15/I&BP/NCLT/MAH/2017

Under Section 33 of IBC, 2016

Hemant Sharma Applicant

In the matter of

Shree Rajeshwar Weaving Mills Pvt. Ltd Corporate Debtor

Order delivered on 5.12.2017

Coram: Hon'ble B.S.V. Prakash Kumar, Member (J)
Hon'ble V. Nallasenapathy, Member (T)

For the Applicant: Mr. Ranit Basu, Advocate for Resolution Professional

For the Respondent: None

Per B. S. V. Prakash Kumar, Member (Judicial)

ORDER

Oral Order dictated in the open court on 27.11.2017



1. It is an application filed by the Insolvency Resolution professional reporting that this Bench passed moratorium order on 2.3.2017 appointing this applicant as Interim Resolution professional.
2. In pursuance thereof, public announcement was given u/s 13 of the Code r/w Section 15 of the Code, inviting claims from the Creditors of the company, as the claims came to the Insolvency Resolution professional, basing on the list of creditors as on 1.4.2017, the Committee of Creditors was constituted on 10.4.2017 issuing notice to hold First Committee of Creditors meeting on 17.4.2017. In the said

meeting, this applicant was duly appointed as Resolution Professional by 100% voting share of Committee of Creditors. Thereafter, on the information memorandum placed before the Committee of Creditors, the Resolution Professional invited offers from the interested parties to place resolution plan through an advertisement in the newspapers on 8.8.2017.

3. In the third meeting dated 19.8.2017, the Chartered Accountant was appointed to carry out the audit of the stock and debtors of the Corporate Debtor for the Financial Year 2014-15, 2015-16 and 2016-17. It was decided that duly appointed Chartered Accountant would inspect the stocks of the Corporate Debtor on 15.9.2017 and report the same within 10 days from such inspection.

4. As the CIRP period was expiring on 28.8.2017, again the Committee of Creditors with 100% voting share sought for extension of 90 days, i.e. from 28.8.2017 to 26.11.2017, the same was extended on 24.8.2017.

5. This Insolvency Resolution Professional also tabled Valuation Reports prepared by two valuers, apart from the information memorandum before the Committee of Creditors. The Valuation Report given by the Valuers reflects that the final liquidation value has been determined at ₹1,54,61,353. In the meeting held on 24.10.2017, discussion came up for one-time settlement offer proposed by Mr. Punaram Patel for settlement of dues of Bank of India to ₹3.00 crores payable in six to eight monthly instalments through post-dated cheques. This was taken note by the Committee of Creditors in the meeting held on 24.10.2017. Later this OTS proposal for ₹3.00 crores was given up in the meeting. Since the Resolution Professional has not received any offer or resolution plan from any prospective investor or any other person for revival of the Corporate Debtor, this applicant filed this Report seeking appropriate directions from this Bench for initiation of liquidation proceedings against the Corporate Debtor.

6. As the extension period of 90 days was going to expire by 26.11.2017, this applicant filed this application on 22.11.2017, reporting that no resolution plan has been received by the Insolvency Resolution Professional to place it before the Committee of Creditors, hence sought for initiation of liquidation proceedings against the

Corporate Debtor under Section 33(1)(a) of the IB Code, 2016 with a prayer to replace him with some other professional as liquidator owing to his personal inconvenience.

7. For the Resolution Professional has sought for discharging him to function as liquidator, this Bench hereby suggests IBBI recommending another Resolution professional to function as Liquidator in the place of present Insolvency Resolution Professional, because he is not interested to work as Liquidator. Since somebody has to continue as Liquidator until new liquidator has been appointed as per the recommendation of IBBI, this applicant is hereby directed to continue as Liquidator until he has been replaced by a person recommended by IBBI

8. On looking at the report and the annexures thereon filed by the Insolvency Resolution Professional, it appears that this professional has taken the recourse available under this Code for resolution plan, since nobody has come forward with Resolution plan as envisaged under this Code, after ascertaining the liquidation value of the company through the Valuers appointed, for this Corporate Debtor has failed to get any resolution plan within the Insolvency Resolution period of 270 days therefore, it has become imperative on this Bench to initiate liquidation process as envisaged under Section 33(1)(a) of the Code.

9. On verification of the Valuation Report, it appears that this company has no fixed assets except some receivables and stock valuing ₹1,54,61,353 as reflected in the Valuation Report, nothing else is present in this company, and for this Bench has already stated that no approved plan has been filed before the Adjudicating Authority as contemplated under Section 31 of the Code, this Bench is supposed to initiate liquidation against the Corporate Debtor as envisaged under Section 33 (1)(a) of the Code, accordingly, this Bench orders

- a. 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.

that the applicant herein is hereby directed to act as a Liquidator, until new liquidator has been appointed as per the recommendation of IBBI,



on this appointment, all the powers of the Board of Directors, key managerial persons; the partners of the Corporate Debtor hereafter ceased to effect for all these powers are hereafter vested with the Liquidator.

- c. that the personnel of the Corporate Debtor are directed to extent all co-operation to the Liquidator as required by him in managing the affairs of the Corporate Debtor.
- d. that the Liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by the Bankruptcy Board and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.
- c. 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 the liberty to the liquidator institute suit or other legal proceeding on behalf of the corporate debtor with prior approval of this Adjudicating Authority.
- d. This liquidation order shall be a deemed to be notice of discharge to the offices, 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.

Sd/-

V. NALLASENAPATHY
Member(Technical)

Sd/-

B. S. V. PRAKASH KUMAR
Member (Judicial)



Certified True Copy
Copy Issued "Free of cost"
On 16.01.2018

Deputy Registrar

National Company Law Tribunal, Mumbai Bench