

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
SINGLE BENCH, CHENNAI**

CA/56/IB/2017 and CA/23/IB/2018 in
CP/505/IB/CB/2017, filed by the Resolution
Professional viz., Mr. Sankar P Panicker, under
Section 33(1)(a) of the Insolvency and
Bankruptcy Code, 2016.

In the matter of

Mr. Jerint Jacob K

... *Operational Creditor*

And

M/s. Orion Kuries and Loans Pvt. Ltd.

... *Corporate Debtor*

Order delivered on 15th of January, 2018

CORAM :

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)


For Corporate Debtor : Mr. Sankar P Panicker

ORDER

Per: CH MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)


1. This relates to CA/56/IB/2017 and CA/23/IB/2017 in CP/505/IB/CB/2017, filed by the Resolution Professional (RP) viz., Mr. Sankar P. Panicker, under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016, (in short 'I&B Code, 2016'), for liquidation of the assets of the Corporate Debtor viz., M/s. Orion Kuries and Loans Private Limited, that has been undergoing Corporate Insolvency Resolution Process (CIRP) since 10.07.2017.

2. It may be recalled that CP/505/IB/CB/2017 was filed under Section 7 of the I&B Code, 2016, which was admitted vide Order dated 10.07.2017, when the CIRP was initiated against the Corporate Debtor viz., M/s. Orion Kuries and Loans Private Limited. The moratorium was declared and Mr. Sankar P. Panicker was appointed as Interim Resolution Professional (IRP) in the matter.

3. The Committee of Creditors (CoC) was constituted and 1st Meeting of the CoC was conducted on 16.08.2017, wherein as per Item No.4, the CoC resolved to continue IRP viz., Mr. Sankar P. Panicker as RP with the proposed remuneration of Rs.70,000/- per month each for five months plus reimbursement of out of pocket expenses at actual amount. It was also resolved to ratify and reimburse the legal and filing charges to the Financial Creditor to the extent of Rs.1,00,000/-. Thereafter, the impossibility of electronic voting in the matter has been brought to the notice of this Adjudicating Authority which, vide Order 

dated 14.09.2017 had directed to conduct manual voting.

4. The 2nd Meeting of CoC was conducted on 09.10.2017, wherein the Resolution Applicant Mr. Jerint Jacob K, had proposed the Resolution Plan to be discussed in the CoC. The RP has explained the impact of the each of the proposals to the CoC. The essence of the Resolution Plan proposed by the Applicant viz., Mr. Jerint Jacob K was to liquidate the assets of the Corporate Debtor for paying the debts, but the same could not be passed due to lack of required majority. Therefore, no resolution plan has been approved by the CoC. In short, the outcome of the two meetings of the CoC is that there is no chance of reviving of the Company as a going concern and no resolution plan is in place. The time period of moratorium has expired on 06.01.2018.

5. The RP has filed the Application under Section 33 (1) (a) of the I&B Code, 2016, on 27.11.2017 which has 


been listed before this Authority on 12.12.2017. Then the matter was posted to 05.01.2018 for arguments, but during the hearing, it has been found that the Minutes of the Meetings of the CoC have not been placed on record. Therefore, the RP was directed to place the same on record along with an Affidavit. The matter has been listed on 12.01,2018 when RP has placed the Minutes of the 1st and 2nd Meetings of the CoC by filing CA/23/IB/2018.

6. Perusal of the extract of the Minutes of the 2nd CoC reveals that no Resolution Plan has been approved by the CoC. Therefore, the matter falls within the purview of Section 33(1)(a) of the I&B Code, 2016, as no Resolution Plan has been received by this Authority in the matter.


ORDER

7. In view of the facts and circumstances recorded by RP in CA/56/IB/2017 (including CA/23/IB/2018), filed in CP/505/IB/CB/2017, this Adjudicating Authority in exercise of powers conferred under Section

33(1)(a) of the I&B Code, 2016, proceed to pass order as follows: -


- i. I hereby order for liquidation of the Corporate Debtor viz., M/s. Orion Kuries and Loans Private Limited, which shall be conducted in the manner as laid down in Chapter III of part II of the I&B Code, 2016;
- ii. I hereby appoint RP viz., Mr. Sankar P. Panicker as Liquidator, who shall issue a public announcement stating therein that the Corporate Debtor is in liquidation;
- iii. The moratorium declared under Section 14 of the I&B Code, 2016, shall cease to have effect from the date of the order of liquidation;
- iv. Copy of this Order shall be sent to the Registrar of Companies, RD, OL and the Registered Office of the Corporate Debtor.
- v. Subject to Section 52 of the I&B Code, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate 

Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.

- vi. I make it clear that para (v) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.
- vii. This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- viii. All the 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 in the Liquidator viz., Mr. Sankar P. 

Panicker. In addition to this, the Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the I&B Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

- ix. The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.
- x. The Liquidator shall be entitled to charge such fee for the conduct of the liquidation proceedings in such a proportion to the value of the liquidation estate assets as may be specified by the Board. Accordingly, the fees of the conduct of the liquidation proceedings shall be paid to the Liquidator from the proceeds of the liquidation estate.

8. In terms of the above, CA/56/IB/2017 (including CA/23/IB/2018) in CP/505/IB/CB/2017 filed by the 

RP under Section 33(1)(a) of the I&B Code, 2016, for initiation of the Liquidation Proceedings against the Corporate Debtor viz., M/s.Orien Kuries & Loans Pvt. Ltd, stands disposed of.

9. A copy of this Order shall be sent to the Liquidator with immediate effect for information and compliance.


[CH.MOHD SHARIEF TARIQ]
MEMBER (JUDICIAL)

P. ATHISTAMANI