

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

IA No.189/2019 in
C.P.(IB)No.9/BB/2017
U/s 33(2) R/w Section 60(5) of IBC, 2016

Shri Thirupal Gorige

Resolution Professional

Appointed by Committee of Creditors

2nd Floor, No.87, 21st Cross,

7th Main Road, NS Palya,

BTM Layout, 2nd Stage,

Bengaluru

- Applicant

Versus

M/s. Liquid Space Entertainment Private Limited

No.744/95-96, Gajendra Nagar,

Anepalya Main Road,

Adugodi Post,

Bengaluru – 560 030.

- Respondent/Corporate Debtor

Date of Order: 30th April, 2019

Coram: 1. Hon'ble Shri Ratakonda Murali, Member (Judicial)

2. Hon'ble Dr. Ashok Kumar Mishra, Member (Technical)

Parties/Counsels Present:

For the Applicant/RP : Shri Thirupal Gorige

For the Respondent : None.

ORDER

Per: Ratakonda Murali, Member (J)

1. I.A No.189/2019 in CP(IB)No.9/BB/2017 is filed by **Shri Thirupal Gorige, Resolution Professional (Applicant)** U/s 33(2) R/w Section 60(5) of IBC, 2016, by inter-alia seeking to order requiring

the Corporate Debtor M/s. Liquid Space Entertainment Private Limited to be liquidated as per the provisions of the Code in terms of decision taken by the Committee of Creditors at their meeting held on 3rd April 2019 Under Section 33(2) of the Code; to order the issuance of a public announcement stating that the Corporate Debtor is in liquidation; to direct such order to be sent to the authority with which the Corporate Debtor is registered.

2. Brief facts of the case which are relevant to the Application filed by the Applicant are as follows:

- 1) The bench admitted the Petition on 29.11.2018 and appointed Shri Thirupal Gorige, having registration No.IBBI-IPA-002/IP-N00016/2016-17/10030 as IRP by declaring moratorium and directing the IRP to carry the functions, as per the provisions of IBC, 2016, against the Corporate Debtor w.e.f. 3rd December 2018.
- 2) The IRP has been discharging all the duties as per the Code. As per Section 12 of the Code the time limit for completion of insolvency and resolution process would expire on June 01, 2019.
- 3) At 3rd CoC meeting held on 3rd April 2019, the Committee of Creditors appointed IRP as RP in terms of Section 22(3) (a) of the Code.
- 4) In the 3rd meeting of the Committee of Creditors held on 03.04.2019, the Committee reviewed liability position and realisable assets of Corporate Debtor. It took the note of total liabilities of Corporate Debtor around Rs.7,96,48,501 and realisable assets Rs.451,128 consisting of a car with a book value Rs.3,18,697 (which is hypothecated with the HDFC Bank) and a bank balance of Rs.132,431. Further the

committee observed that at this juncture there would not be any possibility of revival of the Corporate Debtor and felt no resolution would be possible. Further in order to protect and maximise the recovery of the public money, the CoC decided to seek the permission of the Tribunal to liquidate Corporate Debtor immediately, whereby secured creditor can invoke section 52 by recovering the car and realise its security interest.

- 5) The Committee took note of the provision of sub-section (2) of section 33 of the Code:

COC resolved to liquidate the Corporate Debtor by passing the following resolution unanimously:-

“RESOLVED THAT pursuant to the provisions of the IBC, 2016 in order to maximise the recovery of the public money, subject to approval of this Tribunal, the consent of sole unrelated member of the committee, HDFC Bank be and is hereby accorded to liquidate M/s. Liquid Space Entertainment Private Limited, Corporate Debtor immediately.

“RESOLVED FURTHER THAT Mr. Thirupal Gorige, Resolution Professional be and is hereby authorised to appear, sign, verify, declare, affirm, make present, submit and file all necessary applications, affidavits, undertakings, declarations, statements, papers and documents before this Tribunal to intimate the decision of CoC in the above matter and to do all such acts, things, deeds as needed”.

- 6) As per Section 33(2) R/w Section 60(5) of IBC, 2016 in the matter of Liquid Space Entertainment Private Limited (Corporate Debtor). This application is filed before this Tribunal seeking necessary directions as per the decision of

the committee of creditors taken at 3rd CoC meeting held on 3rd April 2019 to liquidate Corporate Debtor immediately.

3. In light of the decision taken at the 3rd meeting of the CoC dated 03.04.2019, I.A No.189 of 2019 is filed by Resolution Professional for intimation of the decision taken by the CoC for liquidation of Corporate Debtor as per under Section 33(2) of Insolvency and Bankruptcy Code, 2016.
4. The Application was listed for admission on various dates viz., 13.04.2017, 28.11.2017, 09.01.2018, 29.05.2018, 26.09.2018, 20.02.2019, 15.04.2019, 22.04.2019 and on 24.04.2019 and adjourned on those dates at request of party.
5. Heard Shri Thirupal Gorige, learned Resolution Professional and perused the application and documents placed on record evidencing that he has not received any resolution plan. This Application is filed by Resolution Professional U/s 33(a) of I&B Code requesting the Tribunal to pass order of liquidation against the Corporate Debtor Company on the ground no resolution plan was received that Committee of Creditors in the 3rd meeting held on 03.04.2019 passed resolution to approach the Tribunal to liquidate Corporate Debtor. Resolution Professional quoted in the Application the approved resolution of the Committee of Creditors. Therefore, Resolution Professional requested the Tribunal to pass order of liquidation against the Corporate Debtor.
6. Learned Resolution Professional has also given consent to act as Liquidator in IA.No.189/2019, and he is also competent to swear the present Affidavit dated 08.04.2019 to act as liquidator in accordance with sub-section (2) of Section 33 of the Code the I&B Code, 2016 and Regulation 3 of IBBI (Liquidation Process)

Regulations, 2016. The CoC in its meeting dated 03.04.2019 has proposed the Resolution Professional as a liquidator.

7. According to Section 33(1) and 33(2) of the Code, relevant provisions in the instant case, which reads as under:

“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.”*

“33. (2) Where the Adjudicating Authority-

Where the Resolution Professional, at any time during the Corporate Insolvency Resolution Process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors (approved by not less than sixty-six per cent. of the voting share) to liquidate the Corporate Debtor, the Adjudicating

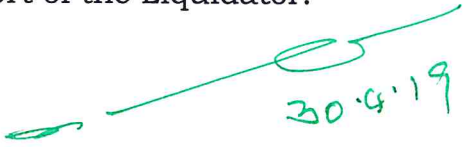
Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1)".

8. Section 33 of I&B Code provides if no resolution plan received then order of liquidation to be passed against the Corporate Debtor Company. Committee of Creditors also approved the resolution for liquidation. In the result Application is allowed. Liquidation order passed against the Corporate Debtor Company.
9. In the Result IA No. 189 of 2019 in C.P.(IB)No.09/BB/2017 is allowed with following directions:
 1. It is hereby appointed Shri Thirupal Gorige IP Registration No. IBBI-IPA-002/IP-N00016/2016-17/10030 as Liquidator to liquidate the Corporate Debtor in pursuant to Section 33(2) of IBC, 2016.
 2. The Liquidator is directed to issue a Public notification stating that the Corporate Debtor is in liquidation within 5 days of the receipt of certified copy of this Order.
 3. That 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.
 4. That the Personnel of 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.
 5. The Liquidator is directed to send copy of this order to the Registrar of Companies, State of Karnataka and other authorities connected with Corporate Debtor.
 6. No suit or other legal proceedings shall be instituted by or against the Corporate Debtor as provided under Section 33(5)

of the Code. However, it would not apply to any other legal proceedings relating to such transactions as may be notified by the Central Government.

7. The Liquidator appointed shall discharge his functions pursuant to powers and duties conferred under Section 35 and other relevant provisions of the IBC, 2016.
8. The fee of the liquidator shall be proportionate to the liquidation estate assets as specified by the Board, and it shall be paid from the proceeds of the liquidation estate u/S 53 of the Code.
9. Liquidator is directed to follow all extant provisions of IBC, 2016 and rules framed by IBBI from time to time.
10. The Liquidator is directed to conclude the Liquidation process, as expeditiously as possible, by initiating expedite steps, and promptly report progress of liquidation process to the Tribunal from time to time.
11. Post the case on **13.06.2019** for report of the Liquidator.


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL


(RATAKONDA MURALI)
MEMBER, JUDICIAL
30.4.19

Shruthi