

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-III**

**M.A. No. 3955 of 2019
In
C.P. No. 3747/IB/2019**

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

In the matter of
Bank Of India
... Operational Creditor

V/s.
Sanghavi Exports International Pvt Ltd
... Corporate Debtor

M.A. No. 3955/2019

Mr. Vikas Gupta
... Applicant/
Resolution Professional

Order delivered on 15.12.2020

Coram:

Hon'ble Shri H. V. Subba Rao, Member (Judicial)
Hon'ble Shri Shyam Babu Gautam, Member (Technical)

Appearance (through video conferencing):

For the Applicant: Mr. Manoj Mishra, Advocate

Per Shri H. V. Subba Rao, Member (Judicial)

ORDER

1. It is an application filed by the Resolution professional seeking liquidation of the Corporate Debtor namely (M/s. Sanghavi Exports International Pvt. Ltd.) on the ground that no resolution plan has been received by him, hence this application under Section 33 (1) of the Insolvency and Bankruptcy Code, 2016, praying following reliefs:

- a. *To pass an order under Section 33(1) of the Code commencing the liquidation of the Corporate Debtor;*
2. The Adjudicating Authority vide its order dated 19.02.2019 on a Petition filed by the Financial Creditor under Section 7 of the Code directed initiation of the Corporate Insolvency Resolution Process (CIRP) against

the Corporate Debtor namely M/s. Sanghavi Exports International Pvt. Ltd., wherein Mr. Vikas Prakash Gupta, was appointed as Interim Resolution Professional (IRP). Thereafter, in the 1st Committee of Creditors (CoC) meeting held on 25.03.2019, Mr. Vikas Gupta, was resolved to be appointed as Resolution Professional (RP). and the same was approved by this Bench.

3. It is further submitted that an advertisement, inviting Expression of Interest (EoI) in Form G was published on 03.05.2019 under which the last date for the receipt of expression of interest was 18.05.2019, published in namely "Sandesh" (Gujrathi Journal at Surat), "Free Press Journal" (English) and in "Navshakti" (Marathi). In response to the issue of advertisement for invitation of the expression of interest, no Resolution applicant came forward.
4. Thereafter, the Resolution professional again issued a newspaper publication for inviting expression of interest on 04.06.2019 for which the last date for the receipt of expression of interest was 19.06.2019 and it was published in "Sandesh" (Gujrathi Journal at Surat), "Free Press Journal" (English) and in "Navshakti" (Marathi).
5. Further, the RP states that the 90 days period of CIRP was extended which came on end on 16.11.2019, vide an order dated 03.09.2019 by this Bench.
6. The CoC in its meeting held on 02.05.2019 decided to appoint a Valuer. The RP accordingly appointed two registered valuers as required under Regulation 27 of the IBBI (IRP for Corporate Persons) Regulations, 2016 and the Information Memorandum was prepared as provided under Regulation 36(1) of the said regulation.
7. The RP submits that the in response to the second publication of invitation for Expression of Interest on 04.06.2019 in form G, only one Expression of Interest was received from Omkara ARC. Thereafter, the prospective resolution applicant was provided with the information, evaluation matrix and others necessary documents, the PRA did not satisfy the eligibility criteria. As CoC demanded Rs. 4 Crores from PRA for payment towards the balance amount of bid guarantee, but the PRA had only Rs. 1 Crore towards the bid guarantee was not acceptable.

8. The CoC in the 9th CoC meeting held on 13.11.2019, it was informed in the meeting that there are no chance of revival of the Corporate debtor Company and the CIRP period of 90 days would come up to an end on 16.11.2019, decided to go for a natural liquidation and file appropriate application post completion of the 270 days period on 16.11.2019.
9. Hence, the CoC in its 9th meeting held on 13.11.2019, unanimously passed a resolution for liquidating the company. Accordingly, the Resolution Professional filed this application for liquidation of the Company as provided u/s. 33 of the Insolvency & Bankruptcy Code, 2016 (Code).
10. The RP submits that Mr. Shailesh Bhalchandra Desai, has given consent and agreed to act as liquidator to carry on the process of liquidation.
11. Upon hearing the submissions of the Applicant and on reading the Application and the documents enclosed therein it is found, the RP has complied with the procedure laid down under the Code; Regulations made thereunder. On verification, we are of the considered view that this is a fit case to pass liquidation order under sub-section 1 of section 33 of the Code for liquidation in the absence of any resolution plan. Hence ordered;

ORDER

- a. The Miscellaneous Application is hereby allowed.
- b. Mr. Shailesh Bhalchandra Desai, Registration No. IBBI/IPA-001/IP-P00183/2017-2018/10362, herein is hereby appointed as Liquidator as provided under Section 34(1) of the Code.
- c. 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.
- d. 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.

- e. The Liquidator appointed under section 34(1) of the Code. Will have 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.
- f. 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.
- g. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.
- h. 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.
- i. 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 to institute suit or other legal proceeding on behalf of the corporate debtor with prior approval of this Adjudicating Authority.
- j. This liquidation order 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.

Sd/-

SHYAM BABU GAUTAM
MEMBER (TECHNICAL)

Sd/-

H. V. SUBBA RAO
MEMBER (JUDICIAL)