

**THE NATIONAL COMPANY LAW TRIBUNAL  
COURT NO. IV  
AT NEW DELHI**

**IA No. 720/ND/2021**

**IN**

**Company Petition No. (IB)-114(ND)/2018**

*Under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 for liquidation of the  
corporate debtor*

**IN THE MATTER OF:**

**Ms. Shalu Khanna**

**Resolution Professional**

....Applicant

**AND IN THE MATTER OF**

**M/s SRS Limited**

...Operational Creditor

Versus

**M/s Saubhagya Ornaments Private Limited**

...Corporate Debtor

Order delivered on: 26.07.2021

**Coram:**

**DR. DEEPTI MUKESH**

**HON'BLE MEMBER (Judicial)**

**MS. SUMITA PURKAYASTHA**

**HON'BLE MEMBER (Technical)**

*IA No. 720/ND/2021*

**ORDER**

**Dr. Deepti Mukesh, Hon'ble Member (J)**

1. This is an application filed by the Resolution Professional under Section 33 (1) of Insolvency and Bankruptcy Code, 2016 (**hereinafter referred as the "Code"**) for issuance of directions for liquidation of the corporate debtor, M/s Saubhagya Ornaments Private Limited.
2. The facts in brief are that the operational creditor, M/s SRS Limited had filed an application bearing no. IB 114(ND)/2018 under Section 9 of the Code for initiation of Corporate Insolvency Resolution Process against the corporate debtor. The said application was admitted by this tribunal vide order dated 13.03.2019 and Ms. Shalu Khanna appointed as Interim Resolution Professional (IRP).
3. The RP submits that pursuant to the order of the appointment and after taking charge of the Corporate Debtor, the IRP conducted 1st meeting of COC on 29.04.2019, wherein the IRP placed report on Constitution of Committee including the list of creditors, claims received, admitted and rejected in furtherance to the Public Announcement dated 04.04.2019 before the COC. In the said meeting, the COC also approved the appointment of the IRP as RP.
4. The RP submits that upon scrutiny of the records of the Corporate Debtor, following irregularities wer found:
  - a. Corporate Debtor is a shell benami company run and managed by the SRS Group.

- b. The Financial Statements of the Corporate Debtor are unreliable and proper Books of Accounts of the Corporate Debtor are not available. There are no employees/Directors of the Corporate Debtor available who can assist the RP in providing the information and explanation to complete the Books of Accounts. Therefore, the RP could not complete the Books of Accounts of the Corporate Debtor and bring them up-to-date as required under Regulation 6 of the IBBI (Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- c. The debtors and Loans and Advances, shown in the books of accounts are Rs. 66,19,34,658/- and Rs. 4,91,05,000/- respectively. The same were not be genuine and the recovery of the amount is highly uncertain.
- d. The inventory consists of shares of unlisted company of various companies and the other similar companies which are run and maintained by the SRS Group. That certain recoveries from few companies are possible, as the RP has arranged meetings with their respective Statutory Auditors and discussion and negotiation is going on with them for realizing the value of investment made by the Corporate Debtor in their companies.
- e. On enquiry, the directors of the Corporate Debtor informed the RP that they were appointed only for the sake of name and have no information about the accounts, financial affairs, business

operations etc. of the Corporate Debtor. Further, informed the RP that they were working under the instructions of certain employees of SRS Group.

- f. There are no employees in the Corporate Debtor.
  - g. There are no funds in the Corporate Debtor.
  - h. No office of the Corporate Debtor was found at the registered address of the Corporate Debtor.
  - i. There is no stock or inventory of jewellery available with the Corporate Debtor. The inventory only consists of unlisted shares of companies of SRS Group or the companies managed and run by SRS Group.
  - j. The Corporate Debtor is in strict violation of various compliances under various Acts.
5. The RP conducted 2<sup>nd</sup> COC meeting dated 07.06.2019 & 3<sup>rd</sup> CoC meeting dated 01.08.2019 respectively and discussed on various aspects of the Corporate Debtor and found that no preparation of Information Memorandum, is possible in view of above circumstances. It was also informed by the RP that various government authorities like Income Tax Department, Serious Fraud Investigation Office, Enforcement Directorate are already investigating the affairs of the group companies and similar findings have also been made by the RP/IRP's appointed in other similar companies of the group. The RP therefore, proposed for the Liquidation of the Corporate Debtor, however the Members of

the CoC did not approve of the same and postponed the matter to a further date.

6. The RP submits that 180 days period of CIRP of the Corporate Debtor expired on 08.09.2019. That having no EOI and Resolution Plan due to the aforesaid facts and circumstances. The Corporate Debtor shall therefore in absence of any extension of CIRP period shall go into liquidation. That having no alternative left, the COC in its 4<sup>th</sup> CoC meeting dated 06.09.2019, had finally decided to liquidate the corporate debtor by 100% voting rights. The following resolution was passed:

*'RESOLVED THAT considering the fact that the period of CIRP will be completed on 08.09.2019 and in accordance with the provisions of Section 33 of the Insolvency and Bankruptcy Code, 2016, the Committee of Creditors decided to liquidate the Corporate Debtor as per the provisions of Insolvency and Bankruptcy code, 2016 and IBBI (Liquidation process) Regulations, 2016.*

*RESOLVED FURTHER THAT Ms. Shalu Khanna, erstwhile Resolution Professional be and is hereby appointed as the Liquidator of the Company at a fees of Rs. 3,00,000/- (i.e. Rs 50,000 p.m (inc GST) estimated for a period of 6 months) or fee calculated as per Regulation 4 of IBBI (Liquidation Process) Regulations, 2019 whichever is higher.*

*RESOLVED FURTHER THAT Ms. Shalu Khanna be and is hereby authorized to do all such acts and deeds as may be required in relation to give effect to the above resolution.*

*"RESOLVED THAT pursuant to the amendments made IBBI (liquidation Process) Regulations, 2016 and IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 dated July 15, 2019, the approval of the members of the Committee be and is hereby given to Ms. Shalu Khanna, Resolution Professional for the estimated liquidation cost and liquidator fees'*

7. The RP has submitted her written consent to act as the Liquidator for the purpose of Liquidation in terms of Section 34 of the Code. The written consent to act as liquidator by the RP, is annexed with the application.
8. The CIRP of 180 days in the present matter expired on 08.09.2019 and because the corporate debtor does not have any asset/business nor have any reliable financial statement, it is seen from the provisions of IBC, 2016 is to only press the liquidation mode as provided under the provisions of section 33 of IBC, 2016 of which the relevant sub-section 1 of section 33 is reproduced hereunder ;

“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.”
9. This Tribunal in the circumstances taking into consideration the provisions of law as well as on facts on record to order for liquidation of the corporate debtor and in the circumstances the corporate debtor stands liquidated and the incidence of liquidation to follow, on and from the date of this order in terms of the provisions of IBC, 2016 and more particularly as given in Chapter – III of IBC, 2016 and also in terms of Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 along with the following directions:
  - a. Ms. Shalu Khanna Resolution Professional holding registration no. IBBI/IPA- 001/ IP-P00917/2017-18/ 11523, is appointed as Liquidator and has given her consent to act as the liquidator under section 34 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
  - b. Ms. Shalu Khanna directed to issue Public Announcement stating that the corporate debtor is in liquidation, in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;



- c. The Registry is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;
- d. In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. Similarly in relation to other fiscal and regulatory authorities which governs the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation
- e. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- f. This order is deemed to be a notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- g. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant regulations.
- h. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the

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Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.

- i. Copy of this order be sent to the operational creditor, corporate debtor and the Liquidator for taking necessary steps.
- j. I.A. 720(ND) /2021 filed in IB 114(ND)/ 2018 is disposed of in the aforesaid terms.
- k. The office is directed to communicate a copy of the order to the Operational Creditor, the Corporate Debtor and the Liquidator at the earliest but not later than seven days from today. A copy of this order be also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.

SD/-

(MS. SUMITA PURKAYASTHA)  
MEMBER (T)

SD/-

(DR. DEEPTI MUKESH)  
MEMBER (J)