

**THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, N Y T E W DELHI
C.A. 2120 (PB)/ 2019
IN
Company Petition No. (IB) – 373 (PB) /2018**

*Under Section 33(2) of the Insolvency and Bankruptcy Code, 2016
for liquidation of the corporate debtor*

IN THE MATTER OF:

Indian Overseas Bank

.... Financial Creditor

Vs.

JMD Oils Private Limited

..... Corporate Debtor

And

Through
Mr. Sandeep Kumar Gupta

.... Applicant/ Resolution Professional

Order Pronounced on : 03.02.2021

Coram:

**SHRI. B.S.V PRAKASH KUMAR
HON'BLE ACTG. PRESIDENT
SHRI. HEMANT KUMAR SARANGI
HON'BLE MEMBER (TECHNICAL)**

For the Applicant: Mr. Gautam Singhal, Mr. Rajat Chaudhary
Adv(s).



ORDER

PER- B.S.V PRAKASH KUMAR ACTG. PRESIDENT

1. This is an application filed by the Resolution Professional, under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for issuance of directions for liquidation of Corporate Debtor, M/s. JMD Oils Private Limited.
2. The facts in brief are that the Financial Creditor, namely, Indian Overseas Bank, had filed a Company Petition under Section 7 of the Code bearing number IB-373(PB)/2018 for initiation of Corporate Insolvency Resolution Process (CIRP), against the Corporate Debtor. The said application was admitted by this Tribunal on 11.12.2018 initiating CIRP against the Corporate Debtor.
3. The Committee of Creditors has been constituted on 07.01.2019 and the first (1st) meeting of CoC held on the same day. Wherein the applicant was resolved to



be appointed as Resolution Professional of the Corporate Debtor in its meeting by 100% votes of the CoC.

4. Thereafter, in the second (2nd) CoC meeting held on 31.01.2019 the eligibility criteria of the Prospective Resolution Applicants (hereinafter referred to as the PRAs the Prospective Resolution Applicant) in terms of the section 25(2)(h) of the Code was decided by the members of the CoC. It was resolved by the members of the CoC to invite Resolution Plans from PRAs, and CoC have been advised the Applicants to issue Form-G in terms of Regulation 36A of the IBBI Regulations.
5. Thereafter, the Applicants have published a Form-G inviting Expression of Interest (hereinafter referred to as the "EoI") from PRAs in "Economics Times" in (all India English edition) and in "Divya Bhaskar" in (Gujarat edition, Gujarat Version) wherein the last date of submission of EoI by the PRAs was fixed as 11.03.2019.



6. Thereafter, the third (3rd) CoC meeting held on 18.03.2019 wherein the CoC further decided to extended the last date for submission of EoI by the PRAs till 21.04.2019 in order to explore more RA and to provide further opportunity to the interested parties for submitting their EoIs and also keeping in view the delays in the proposed appointment of the process advisor who would assist the RP or the CoC in scouting for PRAs before the expiry of the extended last date of EoI.

7. Thereafter, the fourth (4th) CoC meeting held on 20.04.2019 and the applicant as per the decision of CoC, again published a Form-G on 25.04.2019 in Business Standard (All India Edition- Both Hindi and English version) and Sandesh (Gujarati in Pan Gujarat Edition) Extended the last date of the receipt of the EoI to 21.05.2019.

8. Further, in pursuant to the publication of the Form-G on 25.04.2019, the applicant received the EoI from



the four entities namely, 1) Jatalia Global Ventures Limited, 2) Prudent ARC Limited, 3) Mr. Gautam Chopra (Individual NRI) 4) Consortium of PRA- i) M/s AU Agro Oil Private Limited, ii) M/s AB Cotspin India Limited, iv) Chand Rani, and v) Sanya Jindal the minutes of the 4th CoC meeting has been placed on record.

9. Thereafter, the sixth (6th) CoC meeting held on 30.05.2019, and the 4 EoI had been received by the applicant. Therefore, CoC expressed their willingness to explore more better options, hence CoC further agreed to extend the last date of submissions of EoI. Hence, CoC decided to give 30 days' time to PRA, for submitting their EoIs and took the approval of the NCLT vide its order dated 31.05.2019 wherein this Tribunal had allowed an application and extended the CIRP for another 90 days in pursuant to the resolution passed by the CoC in its fifth meeting held on 09.05.2019.



10. Further, the seventh (7th) CoC meeting held on 10.07.2019 wherein the applicant apprised the members of the CoC about receiving the two more EoI, also the applicant informed the CoC about all the four PRA who submitted their EoI earlier via a letter of affirmation for their continued interest to submit the resolution plan. It was further informed by the applicant about their last date for submission of Resolution Plan by the PRA along with EMD was fixed as on 16.08.2019.

11. Thereafter, on 22.07.2019 the CoC had found the six (06) PRAs eligible as per section 25(2)(h) of IBC in compliance with regulation 36A (12) of IBBI (Insolvency Resolution Process for corporate persons) Regulations, 2016, and issued the final list of PRAs. Further, post the expiry of the last date of submission of Resolution plan, on 16.08.2019 one of the PRA i.e AB Global Trade Private Limited (Consortium of PRA) had requested to grant an



extension of time for the submission of Resolution plan.

12. Further, on 17.08.2019 the applicant intimated the members of CoC regarding the extension request of the said PRA for 3 days i.e till 19.08.2019. And also, about receiving one Resolution Plan from the aforementioned PRA, after the last date of submission of the Resolution Plan.

13. Thereafter, the eighth (8th) CoC meeting was held on 20.08.2019 wherein the applicant apprised the members of CoC about the delay in submitting the resolution plan and hence, the CoC deliberated the issue and decided to extend the last date for submission of Resolution Plan till 23.08.2019 and in the same meeting the applicant further discussed with CoC about the financial proposal of the PRA submitted the Resolution Plan, and the CoC found the offer below their expectations, hence not considered.



14. Thereafter, post the extension period, the applicant received an email dated 28.08.2019 from AB Global Trade Pvt. Ltd. (Consortium of PRA) who submitted the Resolution Plan earlier, about their request of withdrawal of the Resolution Plan with additional request to return their EMD viz; Demand Draft of Rs. 2 crore and the Cheque of Rs 3 crore.

15. Further, the Ninth (9th) CoC meeting held on 02.09.2019 wherein the applicant informed the CoC regarding the withdrawal of the resolution plan submitted by the one of the PRA. The CoC deliberated upon the matters and after discussion, concluded. Despite several extensions and opportunities no viable Resolution Plan has emerged even after 270 days of the CIRP period expiring on 07.09.2019. Therefore, the CoC had unanimously with the 100% majority had resolved to approve the initiation of the Liquidation process under section 33 of the IBC of the Corporate Debtor.



16. Further, in the Tenth (10th) CoC meeting held on 07.09.2019 wherein the members of CoC appointed Mr. Sandeep Kumar Gupta as Liquidator in the Liquidation of Corporate Debtor subject to appointment in terms of section 34 of the IBC, 2016.
17. Thereafter, an additional affidavit had been filed by the Resolution Professional Mr. Shalu Khanna on dated 02.01.2021 submitting the fact that the present application had been filed by the Resolution Professional i.e Mr. Sandeep Kumar Gupta, passed away on 01.06.2020.
18. Further, the CoC had filed an IA No. 4326/2020 before this Tribunal and prayed for further appointment of Resolution Professional based on the resolution of CoC passed on dated 29.07.2020 to appoint Ms. Shalu Khanna as the new Resolution Professional at the place of late Mr. Sandeep Kumar Gupta. The Tribunal vide its order dated 09.11.2020 had appointed Ms. Shalu Khanna as the new



Resolution Professional in the instant case.

19. Further, in the eleventh (11th) CoC meeting held on 02.12.2020, the members of CoC with 100 % votes appointed Ms. Shalu Khanna as the Liquidator in the instant case and allow her to perform all the rights and the duties in the capacity of the Resolution Professional and the Liquidator.

20. Therefore, considering the ground of giving ample opportunities to the PRAs and in absence of receiving not even a single resolution plan. In the result this Liquidation Application is hereby allowed by ordering liquidation of the corporate debtor, namely M/s. JMD Oils Private Limited with following directions:

- a. The Ms. Shalu Khanna, holding Registration No. IBBI/IPA-001/IPP00917/2017-2018/11523, having email- skhannar@llca.net is appointed as the Liquidator in terms of Section 32(1) of the Code;
- b. 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;

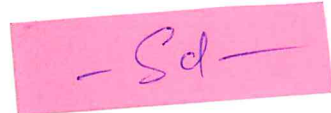
- c. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- d. This order shall be deemed to be notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- e. The Liquidator is directed to proceed with the process of liquidation in the manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant rules and regulations.



- f. The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.
- g. The liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.
- h. The Liquidator shall submit Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016;
- i. Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator for taking necessary steps;

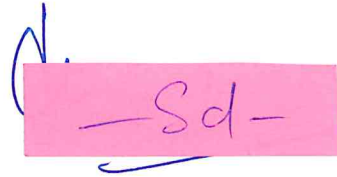


j. IA. 2120(PB)/2019 filed in IB 373/(PB)/2018 is disposed of in terms of the aforesaid terms.



(BSV PRAKASH KUMAR)

ACTNG PRESIDENT



(HEMANT KUMAR SARANGI)

MEMBER (TECHNICAL)