IN THE NATIONAL COMPANY LAW TRIBUNAL DIVISION BENCH (COURT-I) CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON **13.12.2024** THROUGH VIDEO CONFERENCE

PRESENT: HON'BLE SHRI SANJIV JAIN, MEMBER (JUDICIAL)

HON'BLE SHRI VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

IN THE MATTER OF : State Bank of India

Vs

CBC Fashion (Asia) Pvt Ltd

MAIN PETITION NUMBER : CP(IB)/257(CHE)/2022

(IA/MA) APPLICATION NUMBERS

IA(LIQ)/38(CHE)/2024

ORDER

Present: Ms. Deepa Mariyappan, Ld. Counsel for Applicant.

Vide separate order pronounced in Open Court, the Application is allowed.

Mr. Ramachandran Subramanian is appointed as Liquidator.

-sd[VENKATARAMAN SUBRAMANIAM]
MEMBER (TECHNICAL)

-sd-[SANJIV JAIN] MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL DIVISION BENCH – I, CHENNAI

IA(IBC)(LIQ)/38/CHE/2024 in CP(IB)/257/CHE/2022

(Filed under Section 33(1)(b) and 33(2) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of NCLT Rules, 2016)

In the matter of CBC Fashions (Asia) Private Limited

Shri. R. Raghavendran

Resolution Professional of CBC Fashions (Asia) Private Limited Flat No.3, Dhruvatara Apartments, 24L, Dr. Rajendraprasad Road, Tatabad, Coimbatore - 641012.

... Applicant

Order Pronounced on 13th December, 2024

CORAM:

SANJIV JAIN, MEMBER (JUDICIAL)
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

For Applicant: Ms. Deepa Mariappan, Advocate

<u>ORDER</u> (Heard Through Hybrid Mode)

This is an application filed under Section 33(1)(b) and 33(2) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of NCLT Rules, 2016 seeking reliefs as follows:

- "1. Pass an Order requiring the Corporate Debtor CBC Fashions (Asta) (P) Ltd., to be Liquidated under Sec.33(2) IBC;
- 2. Pass an Order confirming the appointment of the present Resolution Professional Mr. R. Raghavendran as the Liquidator of the Corporate Debtor CBC Fashions (Asia) (P) Ltd',
- 3. Pass such further or other orders as may be deemed fit and proper in the facts and circumstances of the case and thus render justice."
- 2. It is stated that State Bank of India, Stressed Assets Management Branch, Coimbatore, financial creditor, filed an application against the Corporate Debtor for initiating Corporate Insolvency Resolution Process. The same was admitted by this Tribunal vide order dated 25.09.2023 in CP/IB/257/CHE/2022 and Mr. Vishwanathan Rajagopalan was appointed as an Interim Resolution Professional.
- 3. The Applicant was appointed as the Resolution Professional of the Corporate Debtor in 1st CoC meeting held on 25.10.2023 and the same was confirmed by this Tribunal vide order dated 24.11.2023 in IA/2225(CHE)/2023.
- 4. In the 3rd CoC Meeting held on 19.12.2023, the Applicant submitted his Take Over Report to the Sole CoC Member where observations were made regarding the non-availability of Audited

Financials for the FYs ending 31.03.2021, 31.03.2022 & 31.03.2023,

the non-availability of plant & machinery, inventory & stocks,

vehicles and that the Registered office was being run on a rented

premises. The Promoter and Suspended Director, Mr. T. R.

Vijayakumar stated that the assets recorded in the Audited Balance

Sheet as on 31.03.2020 were sold by him to settle the SIDBI and

Kotak Loans and that the Receivables were used to settle the Salary

Dues of the CD's Employees, Rental Dues and Creditors partially.

5. It is stated that in the 5th CoC meeting held on 05.02.2024,

Information Memorandum was presented by the Applicant.

However, the value of assets and liabilities of the Corporate Debtor

as on the date of commencement of CIRP could not be ascertained

due to non-availability of financial statements. The CoC decided to

incorporate additional details in the Information Memorandum if

the audited financials were provided by the promoters within a

week.

6. It is stated that the invitation for Expression of Interest (EoI) in

Form G was published on 07.02.2024 in the Coimbatore Editions of

the Newspapers - "The New Indian Express" (English) and

"Dinamani" (Tamil) and the last date for receipt of Expression of

Interest was fixed as 22.02.2024.

7. In the 7th CoC meeting on 20.03.2024, the revised Information

Memorandum incorporating details of Audited Financials till

31.03.2023 and Provisional Financials till 25.09.2023 was presented.

8. It is stated that the 180th day of the CIRP period expired on

23.03.2024. The CIRP period was extended by 60 days from

24.03.2024 till 23.05.2024 by order of this Tribunal in

IA(IBC)/819(CHE)/2024 dated 08.04.2024.

9. It is stated that the 8th CoC Meeting was held on 02.05.2024,

pursuant to receipt of Resolution Plan from the promoter Mr. T. R.

Vijayakumar. The CoC called for the Promoter to furnish Revised

Resolution Plan by 09.05.2024.

10. It is stated that the 240th day of the CIRP period expired on

23.05.2024. The CIRP period was extended by 90 days from

24.05.2024 till 20.08.2024 by order of this Tribunal in

IA(IBC)/1312(CHE)/2024 dated 30.05.2024.

11. It is stated that the Revised Resolution Plan was submitted on

26.06.2024 and the sole CoC member sought for further

improvement in the Resolution Plan Value, for which time of one

week till 02.07.2024 was given to the Resolution Applicant.

12. It is stated that the Revised Resolution Plan was submitted by

the Promoter on 12.07.2024.

13. It is stated that the 330th day of the CIRP period expired on

20.08.2024. The CIRP period was extended by 45 days from

20.08.2024 till 04.10.2024 by order of this Tribunal in

IA(IBC)/1952(CHE)/2024 dated 27.09.2024. It is stated that the 375th

day of the CIRP expired on 04.10.2024. The CIRP period was

extended by 15 days from 05.10.2024 till 19.10.2024, by order of this

Tribunal in IA(IBC)/2037(CHE)/2024 dated 18.10.2024.

14. On 30.09.2024, the Revised Resolution Plan dated 12.07.2024

submitted by the promoter, Mr. T. R. Vijayakumar was rejected by

the CoC. It is stated that in the 16th CoC meeting held on 16.10.2024,

the resolution for Liquidation of the Corporate Debtor was

approved by the Sole CoC Member with 100% voting rights.

15. During the hearing dated 25.10.2024, the Tribunal directed the

CoC to suggest name of the Liquidator by filing a Memo. A memo

was filed by the Applicant vide S.R. No. 5669 dated 25.11.2024,

proposing the name of the Liquidator, Mr. Ramachandran

Subramanian (Reg No: IBBI/IPA-001/IP/P-041440/2018-19/12136).

The written consent of the proposed liquidator in Form AA dated

19.11.2024 and the authorization for assignment valid up to

30.06.2025 were also filed by the Applicant.

16. We have heard the submissions and perused the record.

17. The Applicant has annexed Compliance Certificate in Form-H as

Annexure - II (23) at page 145 to 150 of the Petition typeset. It is

seen from the Form-H that PUFE application is pending vide

IA/IBC/1626(CHE)/2024.

18. It is seen from the records that the Committee of Creditors in

the 16th COC meeting held on 16.10.2024 unanimously resolved to

liquidate the Corporate Debtor. As per Section 33(2) of IBC, 2016,

where the resolution professional, at any time during CIRP but

before confirmation of resolution plan, intimates the Tribunal of the

decision of the CoC approved by not less than 66% of the voting

share to liquidate the corporate debtor, the Tribunal shall pass a

liquidation order. In such circumstances, this Adjudicating

Authority concludes that this application is to be allowed. We

therefore order for initiation for liquidation proceedings as per

Section 33(2) of IBC, 2016 against the Corporate Debtor, M/s CBC

Fashion (Asia) Private Limited.

19. The proposed Liquidator, Mr. Ramachandran Subramanian has

filed his written consent to act as the Liquidator of the Corporate

Debtor and also on verification from the IBBI Website, it is seen that

the Authorization for Assignment (AFA) for the said person is valid

up to 30.06.2025.

20. We hereby appoint *Mr. Ramachandran Subramanian with*

Reg No: IBBI/IPA-001/IP/P-041440/2018-19/12136 as the Liquidator

of the Corporate Debtor, to carry out the liquidation process subject

to the following terms of the directions.

a) The Liquidator shall strictly act in accordance with the

provisions of IBC, 2016 and the attendant Rules and

Regulations including Insolvency and Bankruptcy

(Liquidation Process) Regulations, 2017 as amended upto date enjoined upon her.

- b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.
- c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority.
- d) 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.
- e) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.
- f) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation

commencement date as per regulation 13 of the Insolvency

and Bankruptcy (Liquidation Process) Regulations, 2016.

Further such other or further report as are required to be

filed under the relevant Regulations, in addition, shall also

be duly filed by him with this Adjudicating Authority.

21. The Financial Creditor is directed to deposit INR 2,00,000/-

(Indian Rupees Two lakhs) to the bank account of the Liquidator

within one week, towards his expenses. This shall be subjected to

the rules and regulations under the provisions of the Insolvency and

Bankruptcy Code, 2016.

22. The Applicant is directed to handover all records pertaining to

the Corporate Debtor to the Liquidator.

23. The Registry is directed to communicate this order to the

Registrar of Companies, concerned and to the Insolvency and

Bankruptcy Board of India;

24. 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.

25. Copy of this order be sent to the financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor.

26. With the above said directions, this IA(IBC)(LIQ)/38/CHE/2024 filed for Liquidation of the Corporate Debtor stands allowed.

-Sd-

VENKATARAMAN SUBRAMANIAMMEMBER (TECHNICAL)

SANJIV JAIN MEMBER (JUDICIAL)

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