IA No. 4546 of 2023

IN

CP (IB) NO. 4048/MB/2018

Application u/s 33(2) of the Insolvency and Bankruptcy Code, 2016.

In the matter of:

Pradeep Kumar Chakravarty,

Resolution Professional of M/S Team

Interventure Exports (India) Private Limited;

Residing at: B-301, Jasmine, Agarwal and Doshi Complex, Building no.8 Kauls Heritage City, Bhabola, Vasai(w), District Palghar, Maharashtra - 401202

...Applicant

In the matter of

Bank of Baroda (earlier known as Dena Bank)
...Financial Creditor

v/s.

M/S Team Interventure Exports (India) Private Limited

...Corporate Debtor

Order pronounced on 30.08.2024.

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Coram:

Shri. Kuldip Kumar Kareer: Member Judicial.

Shri. Anil Raj Chellan : Member Technical.

Appearance (in Physical Mode)

For the Applicant: Counsel, Aniruth Purusothaman a/w Aditya Sharma.

ORDER

Per: Coram.

- 1. This is an application filed u/s 33(2) of the Insolvency and Bankruptcy Code, 2016 ("the Code") by Pradeep Kumar Chakravarty, Resolution Professional (RP) of M/S Team Interventure Exports (India) Private Limited ("the Corporate Debtor") seeking liquidation order based on the resolution passed by the Committee of Creditors (CoC) in its 5th meeting held on 23.08.2024.
- 2. On perusal of this application, it emerges that Company Petition (IB) No. 4048 of 2018 u/s Section 7 of the IBC Code, 2016 was admitted by this Tribunal, and Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor on 17.03.2023 and the Applicant herein was appointed as Interim Resolution Professional (IRP).
- 3. The Applicant submits that they obtained details of the Corporate Debtor's bank accounts and informed all relevant banks about the initiation of the Corporate Insolvency Resolution Process (CIRP). Further, according to Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, and Section 13 of the Insolvency and Bankruptcy Code, a public announcement of the CIRP was made on March 22, 2023, in the Financial Express and Navshakti newspapers where in the IRP invited claims from creditors of the Corporate Debtor.

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- 4. The first meeting of the Committee of Creditors (CoC) was held on April 17, 2023, where the Applicant, having received claims, formed the CoC. The CoC resolved to continue the Applicant as the Resolution Professional (RP) of the Corporate Debtor.
- 5. The Applicant submits that during the second CoC meeting on May 17, 2023, the Applicant reported that they, along with valuers visited the Corporate Debtor's office on May 9, 2023, for valuation purposes and prepared the Information Memorandum. The Applicant also informed the members that the suspended directors of the Corporate debtor had still not shared all the information which was asked from them. Further, the Applicant informed the members that if the said information was not shared by Suspended Director within the time committed by him, RP might file an application with NCLT Mumbai under section 19 of IBC Code, 2016 against the Directors of the suspended board of CD for non-cooperation.
- 6. The Applicant submits that claims from SBI Global Factors Limited and Axom Global Trade Private Limited were admitted, and a second addendum was issued on July 13, 2023. The Applicant stated that they reconstituted the Committee of Creditors (CoC) and filed a report certifying the revised composition of the CoC and an updated list of creditors on July 6, 2023, in accordance with Regulation 13(2)(d) of the IBBI Regulations. The Applicant also mentioned that an application was filed with the National Company Law Tribunal (NCLT) on July 27, 2023, to formally place on record the report certifying the reconstituted CoC and the revised list of creditors. This report was accepted by the NCLT on July 20, 2023.
- 7. The Applicant issued a public invitation for Expressions of Interest (EOI) on May 27, 2023, setting deadlines for the submission of Resolution Plans. Although nine parties showed interest, only two submitted the required documents by the final deadline, namely Subhlaxmi Investment Advisory Private Limited and Mr. Pinakin D. Shah. After verification of all the documents, the Applicant issued the Provisional List of Prospective Resolution Applicants on June 23, 2023, and the Final List on July 6, 2023. Accordingly, based on the information submitted by both entities, they were

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shortlisted for the issuance of RFRP. However, the said entities did not submit their Resolution Plan before the last date, i.e., August 5, 2023.

- 8. The Applicant submits that one of the resolution applicants, Mr. Pinakin D. Shah, informed via email on August 7, 2023, that due to unavoidable circumstances, they were unable to complete the inspection of the Corporate Debtor's premises and requested to reschedule it for August 8, 2023. They also committed to submitting a bank guarantee of ₹75 lakhs by August 9, 2023. The Committee of Creditors (CoC) granted Mr. Pinakin D. Shah permission to submit the Resolution Plan by August 9, 2023, and the inspection was conducted on August 8, 2023.
- 9. Thereafter, the Applicant informed the CoC that Mr. Pinakin D. Shah submitted the Resolution Plan via email on August 9, 2023, at 11:58 PM without password protection and stated that the bank guarantee would be provided by August 11, 2023. The Applicant highlighted that this action violated the terms and conditions of the Request for Resolution Plan (RFRP). The CoC suggested granting time for the submission of the bank guarantee as requested but advised against any further extensions. However, by the extended deadline of August 11, 2023, Mr. Pinakin D. Shah failed to submit both the Resolution Plan and the bank guarantee
- 10.On August 14, 2023, the Applicant received an email from an entity named M/s Hanumanta Tradecom requesting to submit an Expression of Interest (EOI) and asking for the EOI documents. The Applicant informed them of the CIRP timelines. The Applicant reported that Hanumanta Tradecom did not submit an Expression of Interest (EOI) and was, therefore, not shortlisted as an eligible Resolution Applicant. Additionally, the entity's net worth is ₹4.90 crores, which is below the minimum requirement of ₹10 crores as per the Request for Resolution Plan (RFRP), making Hanumanta Tradecom ineligible.
- 11. The Applicant informed the CoC that Mr. Pinakin D. Shah sent an email on August 23, 2023, at 2:54 PM, just before the start of the 5th CoC meeting at 3:00 PM, requesting the reissuance of Form G. He stated that if Form G was

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published again, he would submit the Resolution Plan with the required Performance Bank Guarantee.

- 12. Further, Bank of Baroda, a CoC member, suggested to the other CoC members and the Applicant that since sufficient time had been given to all shortlisted Prospective Resolution Applicants (PRAs) to submit their Resolution Plans, and none had done so by the extended deadline, the only option remaining was to proceed with the liquidation of the Corporate Debtor. Hence, in the 5th CoC meeting dated August 23, 2023, the members of the CoC unanimously approved the resolution for the liquidation of the Corporate Debtor.
- 13. The Applicant confirmed compliance with Regulations 39B and 39D of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The CoC approved the related resolutions but rejected the resolution under Regulation 39C with 77.97% of the votes.
- 14. We have considered the arguments presented by the learned Counsel for the Applicant and thoroughly reviewed the material available on record. It was noted that despite the Applicant providing multiple opportunities and extending deadlines for the submission of Resolution Plans, no Resolution Plan was received from any of the Prospective Resolution Applicants (PRAs). As a result, the Applicant was unable to proceed with the Corporate Insolvency Resolution Process (CIRP). In light of these circumstances, and in accordance with the unanimous decision of the Committee of Creditors (CoC), the CoC opted for the liquidation of the Corporate Debtor.
- 15. The extract of the relevant resolution by the CoC in its 5th Meeting held on 23.08.2024 is reproduced herein below:

Item No.3 -

"RESOLVED THAT the committee is hereby accorded to approve the liquidation of the Corporate Debtor as per Section 33(2) of the Insolvency and Bankruptcy Code, 2016 and liquidation regulations thereunder.

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"RESOLVED FURTHER THAT the Committee hereby authorize Mr. Pradeep Kumar Chakravarty, Resolution Professional to do all acts, deeds, and matters as may be necessary to give effect to this resolution."

16.In view of the above discussions and findings, this Bench is of the opinion that the Corporate Debtor is required to be liquidated in the manner as laid down under the Insolvency & Bankruptcy Code, 2016. Hence, we pass the following orders:

ORDER

- a. The Mr. Pradeep Kumar Chakravarty, holding Registration No. IBBI/IPA-003/IP-N000123/2017-2018/11338 is appointed as the Liquidator in terms of Section 34 of the Code;
- b. Registry is directed to communicate this Order to the Registrar of Companies, Mumbai, and to the Insolvency and Bankruptcy Board of India; 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;
- c. This order shall be deemed to be a notice of discharge to the officers, employees, and workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- 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, and in accordance with the relevant rules and regulations.
- e. 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.
- f. 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, if any, as per law.

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- g. 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 Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016;
- h. Copy of this order be sent to the financial creditors, corporate debtor, and the Liquidator for taking necessary steps.
- 17. The IA-4546 of 2023 filed by the RP for Liquidation of the Corporate Debtor stands **allowed** accordingly in aforesaid terms.

Sd/-

ANIL RAJ CHELLAN (MEMBER TECHNICAL)

KULDIP KUMAR KAREER (MEMBER JUDICIAL)