

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 224
(IB)-470(ND)/2018

IN THE MATTER OF:

LIC Housing Finance Ltd.
Vs.

.... Petitioner

Durha Vitrak Pvt. Ltd.

.... Respondent

Order under Section 7 of Insolvency & Bankruptcy Code, 2016 (CIRP)

Order delivered on 31.05.2021

CORAM:

SH. B.S.V. PRAKASH KUMAR
HON'BLE ACTG. PRESIDENT

SH. HEMANT KUMAR SARANGI
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant

Mr. Ashish Makhija, Ms. Akanksha Vasudeva, Advs.
For Dr. Rakesh Saxena for ex Director of CD
Mr. Ashwini Kumar Singh, Adv. for CA-2856/2019

ORDER

IA-2362(PB)/2021:-

Urgent hearing application is hereby disposed by listing IA-1625/2021 for hearing on 20.07.2021.

SD/-

(B.S.V PRAKASH KUMAR)
ACTG. PRESIDENT

SD/-

(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**IA/901/2021
IN
(IB)/470(ND)/2019**

Application filed under section 33(2) of the IBC, 2016

In the matter of

LIC Housing Finance Limited

---Financial Creditor

Vs.

Durha Vitrak Private Limited

---Corporate Debtor

And

In the matter of

Aishwarya Mohan Gahrana

---Applicant/Resolution Professional for Durha Vitrak Private Limited

---Applicant/Resolution Professional

Order delivered on: 31.05.2021

CORAM:

SHRI B.S.V PRAKASH KUMAR

HON'BLE ACTG. PRESIDENT

SHRI HEMANT KUMAR SARANGI

HON'BLE MEMBER (TECHNICAL)

For the Applicant: Mr. Aishwarya Mohan Gahrana, RP
& Mr. Ahsan Ahmed, Adv

For the Ex Director: Mr. Ashish Makhija, Ms. Akanksha Vashudeva, Adv.

ORDER

It is an IA filed u/s 33(2) of the Insolvency & Bankruptcy Code, 2016 (“**the Code**”) by the Resolution Professional (RP) seeking liquidation order based on the resolution passed by the CoC in its 6th meeting held on 28.01.2021 with a requisite majority as contemplated under I&B Code, 2016.

2. On perusal of this application, it appears that this (IB)-470(ND)/2019 was admitted on 08.11.2019 and this Applicant was appointed as IRP and he invited claims from the creditors and constituted CoC only of one Financial Creditor i.e. LIC Housing Finance Limited as the other Financial Creditor i.e. Dr. Arinjaya Jain was a related party to the Corporate Debtor. Subsequently, IRP was appointed as RP in the First Meeting of CoC held on 09.12.2019, and he appointed two Registered Valuers to value the assets of the Company.

3. In furtherance of it, the RP prepared the Information Memorandum and apprised the CoC in its 4th meeting dated 29.04.2020 that the Copy of Information Memorandum may be

obtained after submitting the confidential undertaking and Form G for inviting the expression of interest was published on 17.08.2020 after the approval of the CoC in same meeting. The Form-G was again issued on 14.09.2020 after the discussion held in the fifth CoC meeting held on 07.09.2020. This authority also extended the CIR Period for further 90 days and excluded the period from 25.03.2020 to 31.07.2020 due to Covid-19. In furtherance to the publication of Form G, the resolution professional received an expression of interest from 4 prospective resolution applicants. However, the resolution professional received two proposed resolution plan pursuant to the final list of prospective resolution applicants. In the 6th CoC dated 28.01.2021, the CoC discussed the resolution plans received and was not inclined to consider any resolution plan considering them to be not feasible and viable and pass resolution for initiation of liquidation process of the Corporate Debtor which is as follows: -

“RESOLVE THAT pursuant to Section 33(2) of the Insolvency and Bankruptcy Code, 2016 and the rules made thereunder, the consent of members of the Committee of Creditors be and is hereby accorded to approve the filing of an

application with Hon'ble Adjudicating Authority, regarding the initiation of liquidation of Corporate Debtor and to appoint existing Resolution Professional, subject to given consent to act as liquidator, as the liquidator of the Corporate Debtor.

***"RESOLVE FURTHER THAT** in pursuant to Regulation 4(2) of IBBI (Liquidation Process) Regulations, 2016, the liquidator shall be entitled to a fee of Rs. 1,25,000/- (Rs. One Lakh Twenty-Five Thousand only per month).*

***"RESOLVED FURTHER THAT** the Resolution Professional be and is hereby authorized to submit an application before the Hon'ble Adjudicating Authority and to do all such acts, deeds and things as may be required or considered necessary or incidental thereto."*

4. Looking at the application and averments thereof, we are of the considered opinion that this is a fit case for liquidation, therefore, we hereby order for liquidation of the company with directions as follows:

- a. The Mr. Aishwarya Mohan Gahrana, holding Registration No. IBBI/IPA-002/IP-N00135/2017-2018/10351, having email-aishwaryam_gahrana@yahoo.com is appointed as the Liquidator in terms of Section 32 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 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;
- e. 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.
- 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 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;

- i. Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator for taking necessary steps;
- j. IA-901/2021 filed in IB-470/(ND)/2019 is disposed of in terms of the aforesaid terms.

SD/-

**(BSV PRAKASH KUMAR)
ACTNG PRESIDENT**

SD/-

**(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)**

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