

**In the National Company Law Tribunal
Kolkata Bench
Kolkata**

**COMPANY APPLICATION No. 868/KB/2018
IN
C.P. (IB) No. 549/KB/2017**

In the matter of:

An Application under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016, relevant rules and other applicable provisions of law.

And

BADJATE STOCK & SHARES PRIVATE LIMITED, having Corporate Identity Number U67100MH2008PTC291252, a company incorporated under the Companies Act, 1956 and having its registered office at 274, Sanjay Apartment, Dharampeth Extension, Nagpur - 440010 in the state of Maharashtra

Operational Creditor

And

SNOWBLUE TREXIM PRIVATGE LIMITED, having Corporate Identity Number U51909wb2012ptc173279, a Company incorporated under the Companies Act, 1956 and having its registered Office at 105, Cotton Street, Kolkata - 700 007 in the State of West Bengal, within the aforesaid jurisdiction

... Corporate Debtor

And

MANISH M JAJU, Insolvency Professional, holding IBBI Registration No. IBBI/IPA-001/IP-P00034/2016-17/10087, having his Office at D-502, Neelkanth Business Park, Vidyavihar(West), Mumbai - 86

... Applicant - Resolution Professional



Coram: Shri Jinan K.R., Member (Judicial)

For the Resolution Professional:

PCS Barsha Dikshit,

Date of pronouncement of Order: 26.09.2018

ORDER

Per Shri Jinan K.R., Member(Judicial)

1. The CP(IB) No., 549/KB/2017 has been filed by the Badjate Stock & Shares Pvt. Ltd. under Section 9 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process as against the Corporate Debtor, Snowblue Trexim Pvt. Ltd.
2. Vide Order dated 11-12-2017, the application was admitted by ordering Corporate Insolvency Resolution Process as against the Corporate Debtor and appointed Mr. Manish M Jaju as the IRP.
3. The appointment of IRP was subsequently confirmed by the Committee of Creditors unanimously and thereafter the Resolution Professional had continued the process but failed to find out a Resolution

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Applicant for the reason of non-cooperation on the side of the Corporate Debtor in handing over the requisite information and documents which has necessitated for preparation of information Memorandum and to proceed further. Despite directions issued at the instance of the RP, the Corporate Debtor did not furnish any relevant documents, account books etc., to the RP and thereby the RP recommended liquidation of the Corporate Debtor and the Committee of Creditors at its third meeting held on 20-08-2018 unanimously decided to proceed with liquidation of the Corporate Debtor and passed resolution to that effect.

4. On the strength of the said decision of the COC, the RP has filed the CA(IB) No.868/KB/2018 under Section 33(1) (a) of the Insolvency and Bankruptcy Code, 2016 contending in brief is the following:

5. The Corporate Insolvency Resolution Process(CIRP) of the Corporate Debtor commenced on 11-12-2017 and was extended up to 07-09-2018 vide NCLT Order dated 07-06-2018. The RP has till the filing of this Application conducted 3(three) meetings of the Committee of Creditors(COC). However, due to utter non-co-operation on the part of the corporate Debtor in providing documents and relevant data, the RP was unable to invite any resolution plans from prospective applicants. Since no resolution plan for revival of the Corporate Debtor was received by the RP till the date of filing this Application, the COC Unanimously decided to liquidate the Corporate Debtor and thus, the RP filed the instant Application.



6. Effort was made on the side of the RP to get assistance of Statutory Authorities in order to take custody of books of accounts and other relevant records. But despite direction issued to the Corporate Debtor, the Corporate Debtor failed to co-operate and on failure of collection of information from the Corporate Debtor, the RP was unable to prepare information Memorandum and recommended for liquidation of the Corporate Debtor.

7. While continuing the process, the Resolution Professional has taken note of several transaction that has been structured as undervalued transaction and/or preferential transaction. One of such transactions is investment of Rs. 6.33 crores made in Versatile Infra Projects Limited, during the previous 6 months from the commencement of CIRP. An application under Section 43,49,66 of the code, 2016 listing the vulnerable transaction incurred by the Company has already been filed before the Bench and it is pending as CA(IB) No. 373/KB/2018.

8. When it was considered on 08-08-2018, the Ld. Counsel of the Corporate Debtor submitted that no reply shall be filed by him in respect of the said Application. The statement of the Ld. Counsel was recorded by the Bench.

9. It is contended that the financial statement of the Corporate Debtor for the financial year 2016-17, itself proves that there are no realizable assets available with the Corporate Debtor apart from the investments. The Corporate Debtor, in order to defraud the Applicant, has made a deplorable

attempt to siphon the funds of the Corporate Debtor, by investing in the shares of a company that can be strike off any time by the Registrar of companies as per Section 248(1), which indicates that the said transaction was done deliberately, stealthily and surreptitiously. The details regarding the said transaction incurred by the Corporate Debtor has been mentioned in CA(IB) No.373/KB/2018.

10. Pending consideration of above referred CA(IB) No.373/KB/2018, the Ld. RP submits that there is no other alternative other than to initiate liquidation process as against the Corporate Debtor.

11. Since the extended CIRP period of 270 days has already been expired on 08-09-2018 and since no resolution plan under Section 31 of the code was able to finalise by the RP, there is no other alternative other than to pass an order requiring the Corporate Debtor to be liquidated in the manner as laid down in the Chapter III of the Insolvency & Bankruptcy Code, 2016. Since Mr. Manish M Jaju has given consent to continue as the Liquidator he can be appointed as the Liquidator. Accordingly, this Company Application CA(IB) No. 868/KB/2018 is allowed as under:-

(i) Mr. Manish M Jaju is appointed as the liquidator in CP (IB) No.549/KB/2017.

(ii) Mr. Manish M Jaju is directed to issue public announcement that the Corporate Liquidator is a Liquidator in terms of Regulation 12 of Insolvency and Bankruptcy Regulation 2016.



(iii) The Registry is directed to communicate this order to the Registrar of Companies, West Bengal and to the Insolvency and Bankruptcy Board of India (IBBI), New Delhi.

(iv) The Order of Moratorium passed under Section 14 of the I&B Code, 2016 shall cease to have effects and a fresh moratorium under Section 33 (5) shall commence.

(v) 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 I&B Code, 2016.

(vi) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of the Insolvency and Bankruptcy Code, 2016.

(vii) Upon proceeding with the liquidation the Liquidator shall file a **preliminary report** as per regulation 5 read with Reg.13 of the IBBI(Liquidation) Regulations,2016 at the registry with in 75 days from the liquidation commencement date and continue to file **progress reports** as per Reg.15(1) with in 15 days after the end of the quarter in which he is appointed.

(viii) The fee payable to the Liquidator shall form part of the liquidation cost as provided under Reg. 4(1) of the IBBI (Liquidation Process) Regulations,2016.

12. The CA(IB) No.868/KB/2018 is disposed of accordingly.

13. In view of disposal of CA(IB) No. 868/KB/2018, CP(IB) No. 549/KB/2017 is disposed of.

14. The copy of this order is to be sent to the Liquidator, Operational Creditor and the Corporate Debtor for information and for taking necessary steps.

15. Urgent photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.



26/9/18

(Jinan, K. R.)
Member(Judicial)

Signed on this, the 26th day of September, 2018

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