

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

CP No.181/KB/2017

In the matter of:

Radico Khaitan Ltd.

.....Operational Creditor

And

Ajudhia Distributors Pvt. Ltd.

....Corporate Debtor

Order Delivered on 15th December 2017

Coram:

V. P. Singh, Member (J)

Jinan K.R., Member (J)

For the R.P. : Mr. Arun Kumar Khandelia, Resolution Professional

For Operational Creditor : 1. Mr. Arnab Dutta, Advocate
2. Ms. Banoshree Mukherjee, Advocate
3. Mr. Prajna Bhattachaya, Advocate

ORDER

Per Jinan K.R., Member (J)

This is an application filed by the operational creditor viz. Radico Khaitan Ltd. u/s 9 of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to I & B Code) praying for initiation of corporate insolvency resolution process against the corporate debtor viz. Ajudhia Distributors Pvt. Ltd.

2. This Tribunal by its order dated 1/5/2017 admitted the petition by appointing Mr. Arun Kumar Khandelia as a Interim Resolution Professional to carry out functions mentioned under the I & B Code, 2016. The Interim Resolution Professional, Mr. Arun Kumar Khandelia in compliance of the order

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above referred issued public announcement in accordance with Sec.15 of the I & B Code, 2016 and filed his first progress report on 15/5/2017 informing this Tribunal as to the compliance of direction in the order. However, he filed an interim application being CA (IB) No.238/KB/2017 under Sec.19 (2) and 19 (3) of the I & B Code complaining that the corporate debtor failed to co-operate with him in supplying requisite information for enabling him to initiate Corporate Insolvency Resolution Process against the corporate debtor. Upon filing the above referred application, this Tribunal issued direction to the corporate debtor vide order dated 30/05/2017 to co-operate with the IRP failing which action shall be initiated against the Corporate Debtor. In the meanwhile at the meeting convened by the COC on 24/07/2017 COC confirmed the appointment of Interim Resolution Professional, and filed another application CA No.418/KB/2017 for initiating action against the corporate debtor. In spite of direction issued by this Tribunal for co-operation with the Resolution Professional by giving necessary data for enabling the Resolution Professional to arrive at a resolution plan the corporate debtor failed to comply the directions.

3. Despite notice issued by the Learned Resolution Professional and direction to the corporate debtor issued from this Tribunal, the corporate debtor failed to extend their co-operation to the Resolution Professional and, therefore, the Learned R.P. Could not arrive at a resolution plan.

4. The interim application CA No.418/KB/2017 filed under Sec.70 of the I & B Code has been allowed by this Tribunal by issuing a show cause notice warning him that this Tribunal will initiate penal action against the corporate debtor and its Director Mr. Mohit Korpai. In spite of show cause notice, the

corporate debtor or its directors not appeared before this Tribunal. Being satisfied that the corporate debtor deliberately disobeying, this Tribunal's direction and not to showed readiness to co-operate with the resolution professional for arriving at a resolution plan, we have imposed Rs.3 lakh as a penalty payable by the Director Mr. Mohit Korpai within 15 days of the order dated 8/11/2017. The said order was also communicated to the corporate debtor. However, the corporate debtor did not turn up nor paid the penalty imposed on the Director.

5. In the meanwhile 180 days has expired and thereby the resolution professional filed his report on 7/12/2017. Ld. Resolution Professional submits that since the corporate debtor did not extend any assistance and co-operation to the Ld. R.P., he was unable to carry out his duty and responsibility as resolution professional as mandated under the law and that in the absence of relevant document such as copy of ledger, financial assessment list of fixed assets, list of bank account, details of loan taken by the banks and other financial institutions, list of assets and liabilities and details of operational and financial expenses for the last two years, he could not prepare a resolution plan.

6. He further submits that he served notice to the representative of the corporate debtor and produced proof to prove that notice was served to the representative of the corporate debtor as directed by this Tribunal. He also showed his inability to submit the liquidation plan for want of above said particulars.

7. According to the Ld. Resolution Professional the corporate debtor is directed to furnish the above referred records and he also prayed for issuing

direction to the police administration to bring the representative of the corporate debtor before the Tribunal.

8. We have heard the Learned Counsel for the operational creditor and Ld. R.P. at length. In the absence of any resolution plan, we have no other alternative other than to pass an order of liquidation of the corporate debtor by appointing the very same resolution professional as the liquidator.

9. In view of the above discussion we hereby order liquidation of the corporate debtor as per Sec.33 (1) (a) in the manner as laid down in Chapter III of the I & B Code with the following further orders:-

i. Mr. Arun Kumar Khandelia is hereby appointed as the liquidator.

ii. Issue public announcement stating that the corporate debtor is in liquidation.

iii. Copy of this order may be communicated to the Registrar of Companies for taking adequate steps.

iv. Copy of the order be sent to the Insolvency and Bankruptcy Board of India (IBBI) through Speed Post and email.

v. The order or moratorium passed under Sec.14 of the I & B Code shall seize to effect by the provision of sub-section 4 (14).

vi. Fresh moratorium starts under sub-section 5 (33) of I & B Code shall be deemed to be notice of discharge to the officers, employees and workmen of the corporate debtor.

vii. The Liquidator is hereby directed to proceed with the process of liquidation in the manner as laid down in Chapter 3 of the liquidation process in I & B Code.

10. Communicate a copy of this order to the operational creditor and to the liquidator by email.

11. Urgent photostat certified copies of this order, if applied for, be supplied to parties upon compliance of all requisite formalities.

List the matter on 2/1/2018.

Sd

**V. P. Singh,
Member (J)**

5/12/17

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**Jinan K.R.,
Member (J)**

Signed on 15th December 2017