

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH

CP (IB) No.03/BB/17
Under Section 33(2) Insolvency & Bankruptcy Code, 2016

IN THE MATTER OF SUN-LINE SUPPLIERS PRIVATE LIMITED
AND
INFINITY FAB ENGINEERING COMPANY PRIVATE LIMITED

Order delivered on: 20th February, 2018

Coram: Hon'ble Shri Ratakonda Murali, Member (Judicial)
Hon'ble Shri Ashok Kumar Mishra, Member (Technical)

BETWEEN

Sun-Line Suppliers Private Limited,
At/Pst –Tudiye, Tal-Chandgad,
Dist – Kolhapur – 416 507
Maharashtra State.

- Operational Creditor/Petitioner

AND

M/s. Infinity Fab Engineering Company Private Limited,
Plot No.31, Machhe Industrial Area,
Machhe, Belgaum,
Karnataka – 590 014. - Corporate Debtor/Respondent

Parties Present: Shri Laxman Digambar Pawar (Resolution Professional),

Per: Hon'ble Shri Ratakonda Murali, Member (Judicial)

O R D E R

The Resolution Professional, Shri Laxman D. Pawar, has moved this application under Section 33 (2) of the Insolvency & Bankruptcy Code, 2016, for further directions in the matter of Infinity Fab Engineering Company Private Limited, the corporate debtor herein.

It is stated in the application that the operational creditor has filed the main petition under Section 9 of I & B Code read with Rule 6 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, for initiation of Corporate Insolvency Resolution Process against the corporate debtor. The said application was admitted on 27.06.2017 and the Resolution Professional was first appointed as IRP and the CIR Process started from 27.06.2017. He has stated in his application that he got published the public announcement



of CIR Process in Form 'A' in two newspapers inviting claims from financial/operational creditors and workers and employees. He has further stated in the application that he has constituted a Committee of Creditors on the basis of the claims received and has convened the first meeting of Committee of Creditors on 31.07.2017. He had shown the members of the committee of creditors and their voting share in Exhibit-'B'.

He has further averred that he had appointed two valuers for determining the liquidation value of the corporate debtor in accordance with Regulation 27 read with Regulation 35 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. He has further stated in the application that he received one resolution plan from one Mr. Ravindra Ganamukhi, the promotor of the corporate debtor. He has further stated in his application that the resolution plan was placed before the Committee of Creditors for consideration and approval. He has averred that in the third meeting of the Committee of Creditors held on 05.12.2017, the committee members had some reservations, whereas in the fourth meeting of the Committee of creditors held on 21.12.2017, the committee did not approve the resolution plan and further it did not approve for extension of CIR process and further, directed the Resolution Professional to file report before the Adjudicating Authority and seek directions. Hence, this application.

The Resolution Professional was present on 24.01.2018, and we have heard him.

This application is filed by the Resolution Professional on 12.01.2018. Along with the application, the RP has filed copies of the minutes of meeting of COC held and shown as Exhibit-'D' at pages 16 to 20 of the application. The minutes of the 4th meeting held on 21.12.2017 is enclosed. The resolution was passed that the committee of creditors did not accept the resolution plan and the extension of the period beyond 180 for the CIR Process was also not approved. The present application is filed by the RP under Section 33 of I & B Code which deals with initiation of liquidation.



It is very clear that the resolution plan was not accepted by the committee of creditors in its 4th meeting. The RP has received a resolution plan which was placed before the committee of creditors. But, the committee has not accepted the resolution plan. Secondly, the committee of creditors have also not approved for extension of CIR Process beyond 180 days. The committee of creditors have directed the RP to file application before Adjudicating Authority and seek direction.

Section 30 of I & B Code deals with submission of resolution plan. The resolution plan, however, was not approved by the committee of creditors within the period of CIR Process. Section 33 of the I & B Code provides, if the Adjudicating Authority does not receive a resolution plan during the CIR Process period or the maximum period permitted for completion of CIR Process under Section 12, it shall pass an order requiring the corporate debtor to be liquidated and order for public announcement stating that the corporate debtor is in liquidation and this order to be sent to the concerned authority where the corporate debtor is registered.

It is very clear from the application of the RP that no resolution plan was approved by the committee of creditors and the resolution plan submitted was not accepted. So, within the period of Insolvency Resolution Process, no plan was approved. Therefore, it is a fit case where the corporate debtor is to be liquidated and an order of liquidation is to be passed.

Accordingly this Adjudicating Authority passes the following Liquidation order requiring the Corporate Debtor to be liquidate and;

- i.) That the Resolution Professional appointed for the Corporate Insolvency Resolution Process shall act as Liquidator for the purpose of liquidation pursuant to Section 34(1) of Insolvency and Bankruptcy Code, 2016.
- ii.) That all the powers of the Board of directors, Key Managerial Personnel and the Partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested in the Liquidator.

- iii.) That the Personnel of Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.
- iv.) Issue a public announcement stating that the Corporate Debtor is in liquidation within 5 days of the receipt of certified copy of this Order;
- v.) The Liquidator appointed shall discharge his functions pursuant to the powers and duties conferred under Section 35 and other relevant provisions of the Insolvency and Bankruptcy Code, 2016.
- vi.) The fee of the liquidator shall be proportionate to the liquidation estate assets as specified by the Board and it shall be paid from the proceeds of the liquidation estate u/s 53 of the Code.



(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL



(RATAKONDA MURALI)
MEMBER, JUDICIAL

psp.