

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

Un-numbered MA
in
C.P. NO. 03/I&BP/2017

Under Section 7 of the I&B Code, 2016

Miscellaneous Application filed u/s.33(2) of
I&B Code, 2016.

In the matter of
VIP Finvest Consultancy Pvt. Ltd.
..... Petitioner

v/s.

Bhupen Electronic Ltd.
..... Respondent

Order delivered on: 31.7.2017

Coram: Hon'ble Mr. B.S.V. Prakash Kumar, Member (Judicial)
Hon'ble Mr. V. Nallasenapathy, Member (Technical)

For the Petitioner: Ms. AMI JAIN, Advocate for Resolution Professional.

For the Respondent: None present.

Per B. S. V. Prakash Kumar, Member (Judicial)

ORDER

This Miscellaneous Application is filed by Insolvency Resolution Professional u/s 33(2) of Insolvency & Bankruptcy Code 2016, for the Order requiring the Corporate Debtor to be liquidated as mentioned u/s 33 of this Code, since the Committee of Creditors decided in the meeting held on 29.6.2017

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recommending liquidation of the Company pursuant to section 33(2) of the I&B Code, the Insolvency Resolution filed by this Application.

2. In this Company Petition, this Bench passed an Order of Moratorium on 19.1.2017, thereafter, a Committee of Creditors (CoC) has been constituted by IRP appointed in this case on 22.2.2017; consequent thereto, this Insolvency Resolution Professional filed the report of Committee of Creditors before this Bench. In the first meeting held on 3.3.2017, this Interim Resolution Professional was appointed as Insolvency Resolution Professional (IRP). He submits that since this company is non-operational for decades, it does not have any employees, for this reason, no resolution plan has come from any of the participants, henceforth no resolution plan was passed by the Committee. Finally, when CoC meeting was held on 29.6.2017, they deliberated upon either to make an Application u/s.12(2) of the I&B Code r/w Regulation 40 of IBBI (CIRP) Regulations, 2016 to seek further extension of 90 days or to decide about liquidation of Corporate Debtor as per section 33(2) of the I&B Code, 2016. After due deliberation, CoC had unanimously instructed IRP and asked to inform the Adjudicating Authority pursuant to section 33(2) of I&B Code for liquidation of this Corporate Debtor. Accordingly, IRP has filed this application for relief u/s 33(2) of this Code.

3. By going through the information given by IRP, we are of the view that this IRP has duly complied with in giving Public Announcement in respect to the Moratorium granted, thereafter constituted CoC and held CoC meetings from time to time, finally when no Resolution Plan has come forward, CoC, looking at the

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condition of the Corporate Debtor Company, took unanimous decision recommending to initiate liquidation of the Corporate Debtor. Since this Company is not a going concern, the only thing that has remained in the company is a fixed asset i.e. Land and Building of the company. It appears since no other valuable asset is present in the company, except the Land and Building; CoC might have taken a decision that it would be prudent to go for liquidation instead of coming out with a Resolution Plan.

4. In view of the factual aspects of this case, this Bench, having thought it fit to pass an order requiring the Corporate Debtor to be liquidated, hereby orders for Liquidation of this Company with the reliefs as follows:

- (1) Issue a public announcement stating that the Corporate Debtor is in liquidation;
- (2) IRP and the Registry of NCLT, Mumbai are hereby directed to intimate the Registrar of Companies concerned that this Bench has passed an order for liquidation of this Corporate Debtor Company.
- (3) It is hereby declared that subject to section 52 of the Code, no suit or other legal proceedings shall be initiated by or against the Corporate Debtor except in relation to the transactions as may be notified by the Central Government; provided that a suit and other legal proceedings may be instituted by the Liquidator on Corporate Debtor behalf with prior approval of this Bench.

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- (4) The corporate debtor, not being a going concern, this Order of Liquidation is deemed to be intimation to the Officers, employees and workmen of the Corporate Debtor that this order is a notice of discharge.
- (5) It is hereby declared that, on the IRP not being replaced u/s 34 (4) of the Code, he is allowed to continue as liquidator as stated u/s 34 (1) of the Code and all powers of the Board of Directors, Key managerial personnel and the Partners of the Corporate Debtor, as the case may be, ceased to have effect and all such powers shall be vested in the Liquidator.
- (6) 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.
- (7) It is hereby directed that the personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required in managing the affairs of the company in discharging his functions as specified under section 35 of the Code.

Accordingly, this Application is hereby allowed.

Order Pronounced on 28.7.2017 and delivered on 31.7.2017.

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/-

B.S.V. PRAKASHKUMAR
Member (Judicial)