

THE NATIONAL COMPANY LAW TRIBUNAL
COURT-IV
AT NEW DELHI
I.A. 5619/2020

IN
Company Petition No. (IB) – 364(ND)/2019

In the matter of:

Jasmeet Associates

Operational Creditor

V.

M/s Shri. Ganesh Fire Equipments Pvt. Ltd.

Corporate Debtor

AND

In the matter of:

Rekha Sharma

Applicant/Resolution Professional

*Under Section 33(1) (a) of the Insolvency and Bankruptcy Code, 2016 for
liquidation of the corporate debtor*

Order delivered on: 23.12.2021

Coram:

MR. DHARMINDER SINGH, Hon'ble Member (Judicial)

MR. PRASANTA KUMAR MOHANTY, Hon'ble Member (Technical)

ORDER

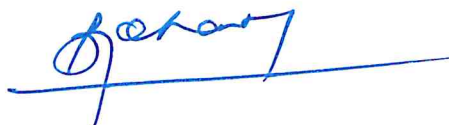
Per Se- Dharminder Singh, Member (J)

1. This is an application filed by the Resolution Professional under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for issuance of directions for liquidation of the Corporate Debtor, Shri Ganesh Fire Equipments Pvt. Ltd.

I.A. 5619/2020

IN

Company Petition No. (IB) – 364(ND)/2019

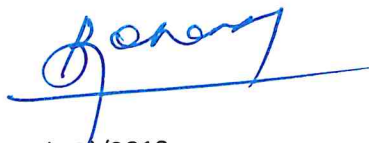


2. The facts in brief are that the operational creditor, Jasmeet Associates, had filed an application under Section 9 of the Code for initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor. The said application was admitted by this Tribunal on 06.02.2020 initiating CIRP against the corporate debtor and appointed Ms. Rekha Sharma as the Interim Resolution Professional (IRP). The IRP made the Public Announcement in 'Form A' in respect of initiation of CIRP. The IRP after collating and verifying claims received and constituted Committee of Creditors (CoC). Form-G for invitation for expression of interest (EOI) was published in the Newspapers on 26.07.2020, 11.08.2020 and 30.09.2020, however no resolution plan was received by applicant for corporate debtor.
3. The Tribunal vide its order dated 24.09.2020 has allowed the extension of 90 days of CIRP period. Further in view of the maximum time prescribed for completion of CIRP under section 12 of the Code, 270 days of the CIRP of the corporate debtor expired on 25.12.2020 and no resolution plan received for the consideration of the CoC.
4. It is further stated that in the 7th meeting of CoC it was mentioned that as the maximum period permitted for the competition of the corporate insolvency resolution process under section 12 is going to be completed soon without having any resolution plan. Therefore, no voting is required as per section 33(2) of the Code.

I.A. 5619/2020

IN

Company Petition No. (IB) - 364(ND)/2019



5. In view of the submission made by the parties, the liquidation has to follow as recommended by the Committee of Creditors in terms of provisions of Section 33 (1) of the Code. Adherence to statutory requirement has to be in toto. When the language of the Code is clear and explicit the Adjudicating Authority must give effect to it and in present case the consequence is liquidation of Corporate Debtor.
6. In the factual background, since there is no resolution plan, period of CIRP has since been ended without any approved resolution plan, **the payer for liquidation of the corporate debtor under Section 33 of the Code is hereby allowed.**
7. Apparently, CoC members having 99.98%, post CoC meeting vide mail dated 21.12.2020 proposed the name of Mr. Prabhakar Kumar (IBBI/IPA-002-N00774/2018-19/12373 Insolvency Professional to act as 'Liquidator'. The written consent of Mr. Prabhakar Kumar has been placed on record vide affidavit dated 02.12.2021.
8. Resultantly, the present application IA No. 5619/2020 stands allowed and hereby it is ordered that liquidation of the corporate debtor, namely M/s. Shri Ganesh Fire Equipments Pvt. Ltd. shall be commenced in the manner laid down in the Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 along with following directions:

- a. Mr. Prabhakar Kumar, having registration number IBBI/IPA-002-N00774/2018-19/12373, is appointed as Liquidator in terms of Section 34(1) of the Code.

I.A. 5619/2020

IN

Company Petition No. (IB) – 364(ND)/2019



- b.** Mr. Prabhakar Kumar, is directed to issue Public Announcement stating that the corporate debtor is in liquidation, in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (Regulations);
- c.** The 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;
- d.** The Order of Moratorium passed under Section 14 of the Code shall cease to have its effect and that a fresh Moratorium under Section 33(5) of the Code shall commence;
- e.** The Liquidator is directed to proceed with the process of liquidation in the manner laid down in Chapter III of Part II of the Code and in accordance with the relevant regulations.
- f.** The liquidator shall follow up and investigate the financial affairs of the corporate debtor in accordance with provisions of Section 35 (l) of the Code.
- g.** The liquidator shall also follow pending application, if any, for its 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 Regulations.

- i. The Liquidator is directed to ensure that the Liquidation process is completed within a period of one year from the date of this order as provided under Regulation 44 of the Liquidation process.

Resultantly the present application stands allowed

Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator for taking necessary steps.

-sd-

(PRASANTA KUMAR MOHANTY)
MEMBER (T)

-sd-

(DHARMINDER SINGH)
MEMBER (J)