(2022) 04 NCLT CK 0057

In the National Company Law Tribunal

Case No : CA No.367/ALD/2019 in CP (IB) No.191/ALD/2017

Punjab National Bank APPELLANT

Vs

M/s Savaria Roller Flour Mills Private Limited RESPONDENT

Date of Decision : 19-04-2022

Acts Referred:

Insolvency & Bankruptcy Code, 2016 — Section 7, 33(1), 33(1)(b)(iii), 33(2), 33(5), 33(7), 34(1), 34(2), 52

Citation : (2022) 04 NCLT CK 0057

Hon'ble Judges : Rajasekhar V.K., Member (J);Virendra Kumar Gupta, Member (T)

Bench : Division Bench

Advocate : Babita Jain

Final Decision : Disposed Of

Judgement

Rajasekhar V.K., Member (Judicial)

1. This court convened via video conferencing.

2. This is an application filed by the Resolution Professional ('IRP') upon the instructions of the Committee of Creditors ('CoC') seeking liquidation of the

Corporate Debtor, viz., Savaria Roller Flour Mills Private Limited [CIN: U15311UP2004PTC028338], on the ground that no resolution plan was received. The Applicant has sought for the following reliefs:

a. Pass an order under section 33(2) of the Insolvency & Bankruptcy Code, 2016 for liquidation of the Corporate Debtor i.e., Savaria Roller Flour Mills Private Limited

b. Pass an order for appointment of applicant as liquidator in respect of the Corporate Debtor.

3. This Adjudicating Authority, vide its order dated 06.06.2018 on a Petition filed by Punjab National Bank ('Financial Creditor') under section 7 of the Insolvency

and Bankruptcy Code, 2016 ('the Code'), directed initiation of the Corporate Insolvency Resolution Process ('CIRP') against the Corporate Debtor and appointed Mr. Shravan Kumar Vishnoi as the Interim Resolution Professional ('IRP') who was confirmed as RP vide order of this Adjudicating Authority dated 20.07.2018.

4. The Applicant further submits that there was no cooperation from any of the suspended board of Directors. Further the CoC was constituted, and RP has taken all possible efforts for conducting the CIRP, but no substantial information was received from the Suspended Board and, therefore no substantial work was initiated for. inviting expression of interest in Form G. Then, on 09.10.2019 in the 14th CoC meeting, the CoC decided to publish Form G and last date for receipt of expression of interest was 26.10.21019.

5. On 11.11.2019, in the 15th meeting of the CoC, in absence of any resolution plan, it was resolved by the members of CoC that as there are no possible ways for revival of corporate debtor. Therefore, the CoC with 100% voting share recommended for liquidation of the Corporate Debtor and to appoint Mr. the present RP Mr. Shravan Kumar Vishnoi as liquidator.

6. Hence, the IRP has filed the present application under section 33(1) of the Code, before this Adjudicating Authority for liquidation of the Corporate Debtor and appointment of applicant as liquidator. The applicant has given his consent to act as liquidator which is placed at Pg.89 and 90 of the present application. He is stated to have a valid Authorisation for Assignment.

7. This Bench, therefore, hereby orders as follows: -

a. Prayers as sought for in C.A.No. 367/2019 filed by Mr. Shravan Kumar Vishnoi, RP of Savaria Roller Flour Mills Private Limited, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(1) of the Code read with sub-section (1) thereof;

b. Mr Shravan Kumar Vishnoi [Reg No IBBI/IPA-002/IP-N00040/2016-17/10079]; Email: shravan.vishnoi@yahoo.com; Address: BCC Tower, 1008,10th Floor, Arjun Ganj, Near Shaheed Path, Lucknow, Uttar Pradesh 226002; whose name has been proposed by CoC is hereby appointed as liquidator as provided under section 34(1) of the Code, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019.

c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier stating that the Corporate Debtor is in liquidation.

e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.

f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

g. On initiation of the liquidation process but subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.

h. In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a notice of discharge to the officers, employees, and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.

i. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, Uttar Pradesh, Kanpur, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, Uttar Pradesh, Kanpur.

8. The application bearing CA No. 367/2019 shall stand disposed of in accordance with the above directions.

9. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.

10. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

11. List the main CP (IB) No. 191/ALD/2017 for reporting progress on 04.07.2022.

