

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

IA(IB) No. 695/KB/2021
in
CP (IB) No. 830/KB/2018

Under section 33(1)(a)(i) of the Insolvency & Bankruptcy Code, 2016

In the matter of

Sujla Suppliers Private Limited

...Financial Creditor

Versus

Barclay Enterprises Limited
(CIN: L01132WB1983PLC035629)

...Corporate Debtor

And

In the matter of

Mr. Jai Narayan Gupta,
Resolution Professional of Barclay Enterprises Limited

... Applicant

Order reserved on: 10/01/2022

Order pronounced on: 24/01/2022

Coram:

Shri Rohit Kapoor : Member (Judicial)

Shri Harish Chander Suri : Member (Technical)

Appearances (through video conferencing):

For the Applicant : Mr. Jai Narayan Gupta, RP in person

For Respondent in IA/(IBC)/315(KB)2021: Mr. Jishnu Chowdhury, Adv.
& Applicant in IA(IBC)/1003(KB)2021 Mr. Ratul Das, Adv.
Mr. Sanket Sarawgi, Adv.
Mr. Arka Banerjee, Adv.

ORDER

Per: Harish Chander Suri, Member (Technical)

1. This Tribunal convened via video conference.
2. IA(IBC)/695(KB)2021 is an application filed by the Resolution Professional of Barclay Enterprises Limited, the Corporate Debtor, on the ground that no resolution plan has been received by him in spite of publication of Form 'G', for liquidation of the Corporate Debtor.
3. This Adjudicating authority *vide* order dated 29/08/2019 in CP(IB) No. 830/KB/2018 had ordered initiation of CIRP against the Corporate Debtor and appointed Mr. Jai Narayan Gupta as the Interim Resolution Professional. Interim Resolution Professional was confirmed as the Resolution Professional of the Corporate Debtor at the first meeting of the Committee of Creditors held on 01/10/2019, in terms of the information contained in the First Progress Report filed by the Resolution Professional. Public announcement in Form 'A' was published in *Financial Express* (English) and *Ei Samay* (Bengali) on 06/09/2019 inviting claims from the creditors on or before 17/09/2019 and CoC was duly formed on 24/09/2019. Form 'G' was published in *Financial Express* (English) and *Aajkal* (Bengali) on 14/11/2019. The last date for receiving Expression of Interest was mentioned as 02/12/2019. No Expression of Interests were received until that date.
4. *Vide* order dated 25/02/2020 this Adjudicating Authority has extended the CIRP period by 90 days from 25/02/2020. *Vide* order dated 26/03/2021 passed in IA/176(KB)2021, this Adjudicating Authority excluded 369 days from the

CIRP period and further extended the CIRP period by 60 days thereby the CIRP period came to an end on 28/07/2021.

5. It appears that the last available Balance Sheet on the MCA Portal was only up to 2013-14. The RP has filed an application being IA (IB) No.315 (KB)2021 under sections 43, 45 and 66 for preferential, undervalued and fraudulent transactions.
6. The Resolution Professional has given his consent to act as the Liquidator of the Corporate Debtor and has annexed with the application as Annexure – “5”.
7. Section 33(1)(a) of the Code mandates that the Adjudicating Authority shall pass an order of liquidation where no resolution plan is received before the expiry of the CIRP. Sub-section (2) thereof requires the Adjudicating Authority to pass the liquidation order where the Resolution Professional intimates to the Adjudicating Authority the decision of the Committee of Creditors approved by not less than 66% of the voting share to liquidate the Corporate Debtor.
8. Reading these two provisions together, this Adjudicating Authority is left with no option but to order liquidation of the Corporate Debtor.
9. This Bench, therefore, hereby orders as follows: -
 - a. IA(IB) No.695/KB/2021 filed by Mr. Jai Narayan Gupta, RP of **Barclay Enterprises Limited**, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;
 - b. Mr. Jai Narayan Gupta [Reg. No. IBBI/IPA-001/IP-P00371/2017-2018/10628], is hereby appointed as Liquidator as provided under section 34(1) of the Code, subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member, 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, *i.e.*, *Financial Express* (English) and *Aajkal* (Bengali) of Kolkata edition of the said newspapers 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, West Bengal, Kolkata, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry

shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.

10. The application bearing **IA(IB) No. 695/KB/2021** shall stand disposed of in accordance with the above directions.
11. **CP (IB) No. 830/KB/2018** to come up for filing of periodical report on 25/04/2022.
12. A copy of this order be also sent to the IBBI for information.
13. 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.
14. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Harish Chander Suri
Member (Technical)

Rohit Kapoor
Member (Judicial)

Signed on this 24th day of January, 2022.

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