

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT-II)

IA-4873/ND/2020

IN

Company Petition No. (IB)-2257 (ND)2019

IN THE MATTER OF :

M/s Adonis Electronics Private Limited

...Operational Creditor

Versus

M/s Monica Electronics Limited

...Corporate Debtor

AND IN THE MATTER OF :

Sanjay Kumar Singh
Resolution Professional
of Monica Electronics Limited
003, Windsor, Grand Forte,
Plot No. 76, Sigma-IV, Greater Noida

...Applicant/Resolution Professional

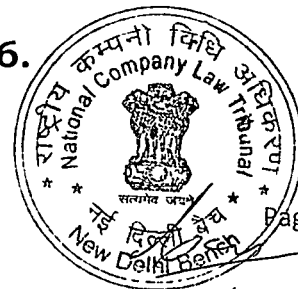
Versus

Rajeev Saxena
C-63, Pocket-II, Kendriya Vihar-II
Near Bhangal, Sector-82
Noida, 201301 UP

...Respondent

Order Delivered on: 15.03.2021

Under Section: 33(2) of the IBC, 2016.



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17/3/2021

CORAM:

SHRI. ABNI RANJAN KUMAR SINHA, MEMBER (J)

SHRI. L. N. GUPTA, HON'BLE MEMBER (T)

PRESENT:

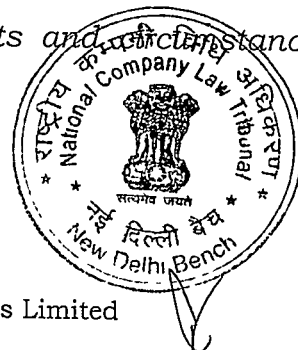
For the Applicant : Mr. Sanjay Kumar Singh RP
Mr. Nithish Bangera, Advocate

ORDER

PER SHRI L. N. GUPTA, MEMBER (T)

This IA has been filed by Mr. Sanjay Kumar Singh, the Resolution Professional of M/s Monica Electronics Limited. (**“the Applicant”**) under Section 33(2) of the Insolvency and Bankruptcy Code, 2016, for seeking the following main reliefs:

- “1. *Please allow the application for commencement of Liquidation Process of the Corporate Debtor filed under section 33(2) of the Insolvency and Bankruptcy Code, 2016.*
2. *Allow the appointment of Sanjay Kumar Singh, currently working as Resolution Professional to act as Liquidator.*
3. *Pass any other or further order(s) as this Hon'ble NCLT deems fit in facts and circumstances of the case.”*



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2. Facts of the case in brief are that the Operational Creditor, M/s Adonis Electronics Pvt. Ltd. had filed an Application bearing No. (IB)-2257/(ND)/2019 under Section 9 of the IBC, 2016 for initiating the Corporate Insolvency Resolution Process (CIRP) against M/s Monica Electronics Limited. The said Application was admitted by this Tribunal vide Order dated 04.11.2019 and Mr. Sanjay Kumar Singh was appointed as the Interim Resolution Professional (IRP).

3. In terms of the Regulation 6(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the said Interim Resolution Professional made a public announcement in the Form-A, which was published in the newspapers namely, the Times of India (English) and Jansatta (Hindi) on 15.11.2019. The said public announcement was also uploaded on the website of the Insolvency and Bankruptcy Board of India (IBBI).

4. It is stated by the Applicant that he had constituted the Committee of Creditors (CoC) comprising of the sole Operational Creditor i.e., Adonis Electronics Private Limited under Regulation 16 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. It is added by him that no other claims were received by the Applicant.

5. It is further stated by the Applicant that in the First Meeting of CoC held on 03.12.2019, the CoC confirmed the appointment of IRP as RP.



6. That the IRP Mr. Sanjay Kumar Singh was confirmed as Resolution Professional (RP) of the Corporate Debtor vide Order dated 09.12.2019 passed by this Tribunal.

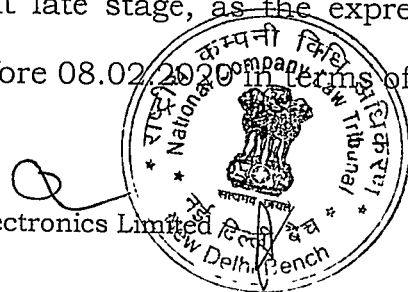
7. It is submitted by the Applicant that as per the decision of the CoC, the Applicant invited the expression of interest from the prospective resolution applicants by issuing FORM-G under IBBI (Insolvency Resolution Process and Corporate Persons) Regulations, 2016 on 24.01.2020. It is added that the publication of Form-G was made in Financial Express (English) and Jansatta (Hindi) on 25.01.2020.

8. It is added that pursuant to the publication of Form G, the Applicant received one Expression of Interest from one M/s Kanodia Cement Limited.

9. It is further submitted by the Applicant that it had received a Resolution Plan from one Resolution Applicant. It is added that before considering the plan, the CoC wanted to have discussion with the Resolution Applicant and accordingly, the Applicant had sent an email to the Resolution Applicant seeking time to discuss the Resolution Plan.

10. It is added by the Applicant that on 09.07.2020, the said Resolution Applicant sent an email withdrawing its Resolution plan, due to the changed business scenario due to Covid-19 pandemic.

11. It is stated by the Applicant that on 18.08.2020, an expression of interest was received from Mr. Prateek Vijayvargiya. However, it is added that the same was received at late stage, as the expression of interest was to be submitted on or before 08.02.2020 in terms of FormG.



12. It is stated by the Applicant that again on 03.09.2020, the CoC decided to get a fresh Expression of Interest invited from prospective resolution applicants by issuing fresh FORM-G. It is added that the same was published on 05.09.2020 in Financial Express (English) as well as Jansatta (Hindi).

13. It is submitted that in response to the fresh publication, the RP received 4 EOIs from prospective Resolution Applicants. It is added that the last date of submission of Resolution Plan was 28.10.2020. However, no resolution plan was received before the deadline.

14. It is averred by the Applicant :

“20. That in response of the public announcement made on 4th September, 2020, the applicant received four expression of interests from prospective resolution applicants and accordingly prepared the Provisional lists of prospective resolution applications and hosted the same at the website of the corporate debtor. The applicant sent the request for resolution plans to all the four prospective resolution applicants requesting them to submit the resolution plan on or before 28.10.2020 but Applicant has not received any resolution plan on expiry of the aforesaid period. It is pertinent to mention here that earlier also one resolution applicant would submitted expression of interest in terms of first public announcement made on 24.01.2020 has withdrawn from the process due to COVID pandemic.”



The CoC in its meeting held on 03.11.2020, upon realizing the impossibility of resolution, decided to move this Authority an Application under Section 33(2) of IBC 2016.

15. It is averred by the Applicant that subsequently, in the sixth meeting of the CoC held on 03.11.2020, the following resolution was put to vote before the CoC :

“

RESOLVED THAT pursuant to section 33(2) of the Insolvency and Bankruptcy Code, 2016 and all other applicable provisions, the corporate debtor Monica Electronics Limited having CIN L51395DL1975PLC008005, be liquidated and Mr. Sanjay Kumar Singh, Insolvency Professional having registration IBBI/IPA-002/IP-N00188/2017-18/10505 currently acting as Resolution Professional of the corporate debtor, who has given his consent to act as Liquidator be and is hereby recommended for his appointment as Liquidator under the provisions of the Insolvency and Bankruptcy Code, 2016.

RESOLVED FURTHER THAT Mr Sanjay Kumar Singh, Resolution Professional be and is hereby authorized to file appropriate application seeking Liquidation of the corporate debtor Monica Electronics Limited having CIN L51395DL1975PLC008005 and to do all acts, deeds and things which are necessary for the carrying on the resolution.

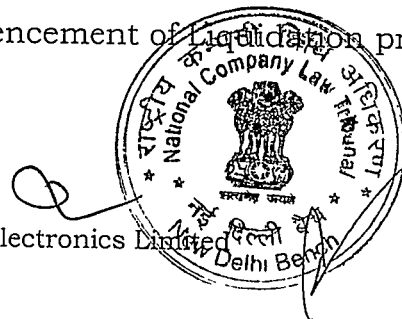
A

Sanjay Kumar Singh

Sanjay Kumar Singh

”

16. It is further averred by the Applicant that the aforesaid Resolution for Liquidation of the Corporate Debtor was passed by 100% voting share of the CoC as recorded in the minute book of the 6th Meeting of CoC dated 03.11.2020 and the RP was authorized to file appropriate Application seeking approval of NCLT for commencement of Liquidation process.

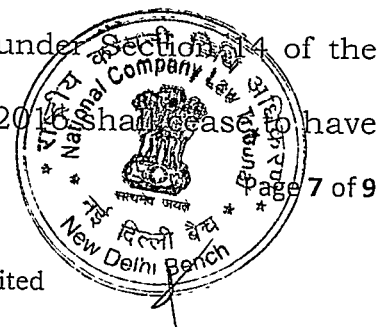


17. That the RP has also filed his 'written communication' / consent to act as Liquidator of the Corporate Debtor as required under Section 34(1) of the IBC, 2016.

18. In the circumstances and there being no other alternative, this Bench is inclined to accept the Resolution of the COC and order Liquidation of the Corporate Debtor.

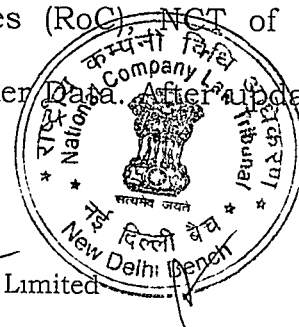
19. In sequel to the above, **the IA is allowed, ordering Liquidation of the Corporate Debtor, M/s. Monica Electronics Limited** in the manner as laid down in the Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant Rules and Regulations along with the following directions:

- a. Mr. Sanjay Kumar Singh, having IBBI Registration No. IBBI registration Number (IBBI/IPA-002/IP-N00188/2017-18/10505, is appointed as Liquidator, who has given his written consent to act as Liquidator in terms of Section 34 (1) of IBC 2016;
- b. The Liquidator, is directed to issue public announcement clearly stating that the Corporate Debtor is under Liquidation in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;
- c. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have



its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;

- d. This Order shall be deemed to be a notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- e. **Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor to determine the undervalued and preferential transactions etc., if any.**
- f. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five (75) days from the Liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.
- g. **The Registry is directed to communicate a copy of this Order by email to the Operational Creditor, the Corporate Debtor and Liquidator Mr. Sanjay Kumar Singh at the earliest but not later than seven days from today.**
- h. A copy of this Order be sent by the Registry and Liquidator to the Registrar of Companies (RoC), NCT of Delhi & Haryana for updating the Master Data. After updating the

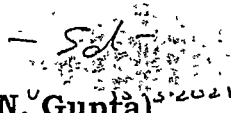


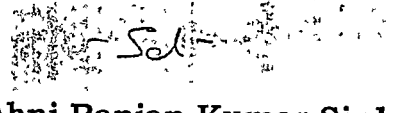
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Master Data, ROC shall send compliance report to the Registrar, NCLT within a period of 30 days;

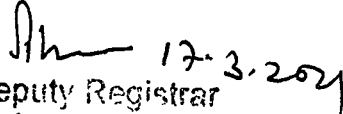
- i. The Registry and Liquidator are directed to communicate a copy of this Order to the Insolvency and Bankruptcy Board (IBBI) of India for their record.

20. IA-4873/ND/2020 filed in IB-2257(ND)/2019 is allowed in the aforesaid terms.


(L. N. Gupta)
Member (T)


(Abni Ranjan Kumar Sinha)
Member (J)




Deputy Registrar
National Company Law Tribunal
CGO Complex, New Delhi-110003