IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

MA No. 2758/2019
In
C. P. 2866/I&B/2018

Under Section 33 of Insolvency &
Bankruptcy Code, 2016
In the matter of
Wings Travels Management (I) Pvt. Ltd.
... Corporate Debtor

M.A. No. 2758/2019
Mr. Vishal Bidawatjika
... Applicant/
Resolution Professional

Order delivered on: 20.09.2019

Coram:
Hon'ble Shri Bhaskara Pantula Mohan, Member (Judicial)
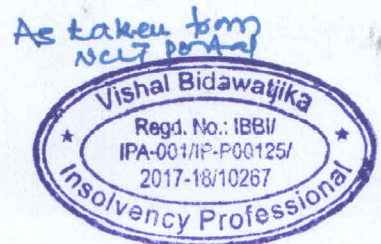Hon'ble Shri Shyam Babu Gautam, Member (Technical)

For the Applicant: Mr. Akash Acharya, Advocate
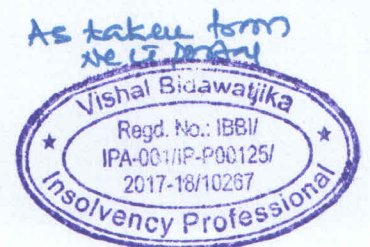
Per Shri Shyam Babu Gautam, Member (Technical)

ORDER

1.   The Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor by an order dated 03.12.2018 of this Adjudicating Authority on a Section 10 Petition filed by the Corporate Debtor, wherein Mr. Laxman Digambar Pawar, was appointed as Interim Resolution Professional (IRP). Thereafter on 01.01.2019 in the 1st Committee of Creditors (CoC) meeting Mr. Vishal Bidawitjika, was replaced and resolved to be appointed as Resolution Professional (RP) and the same was approved by this Bench on 31.01.2019.
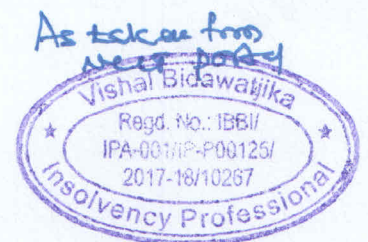
2.   The RP submits that the public announcement was made on 12.12.2018 fixing 27.12.2018 as the last date for submitting the claim. Subsequently, the RP constituted the CoC.

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3.   The RP submits that he had appointed two registered valuers as required under Regulation 27 of the IBBI (IRP for Corporate Persons) Regulations, 2016 and the Information Memorandum was prepared as provided under Regulation 36(1) of the said regulation. It is further submitted that in the 3rd meeting of CoC held on 29.03.2019 an advertisement was issued, inviting Expression of Interest in Form G on 03.04.2019, fixing 30.05.2019 as last date for submission of Expression of Interest by the Prospective Resolution Applicants.

4.   The Resolution Professional submits that only one Expression of Interest was received by him from M/s. Outcome Commercials Pvt. Ltd. The CoC in the 4th CoC meeting held on 10.05.2019 decided to extend the time of the CIRP by another 90 days and the same was extended with the CIRP ending on 31.08.2019, after providing additional time the Prospective Resolution Applicant failed to submit the Resolution plan. Thereafter, the CoC in the 5th Meeting held on 28.06.2019 conducted e-voting wherein it was unanimously decided by the CoC to liquidate the Company. The COC decided to liquidate the company with 100% voting. Hence this Application, was filed by the RP.

5.   The Applicant/ Resolution Professional Mr. Vishal Bidawatjika, has agreed to act as liquidator to carry on the process of liquidation and given his consent to act as Liquidator.

6.   On hearing the submissions of the Applicant and on reading the Application and the documents enclosed therein, the RP has complied with the procedure laid down under, the Code read with Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (Regulations), for the valuation report filed by the valuer has not been disputed by the CoC, on verification, we are of the view that this case is fit to pass liquidation order under sub-section 1 of section 33 of the Code as no resolution plan has been approved by the Adjudicating Authorityand accordingly, this Bench orders;

    a.   that the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.

b. that the Mr. Vishal Bidawatjika, Registration No. IBBI/IPA-001/IP-P00125/2017-18/10267, Contact No 9892333340, herein is hereby appointed as Liquidator as provided under Section 34(1) of the Code. The Liquidator's fee is fixed at i) ₹2,00,000/- payable per month during the period of liquidation and till the end of entire process, ii) a fee equivalent to 2% on cash flow generated by the Corporate Debtor from operations, iii) Payment of equivalent to 10% from the proceeds on recoveries/ sale of business made by the Liquidator during the period of liquidation.

c. all the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.

d. that the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

e. that the liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by the IBBI and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.

f. that on having liquidation process initiated, 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.

g. 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.

7. Consequently, as stated supra, Resolution Professional is appointed as the Liquidator as provided under section 34(1) of the Code. All powers of the board of directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the liquidator;

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8. Accordingly, this Misc. Application is hereby allowed directing the Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of theCode by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

Sd/-	Sd/-
SHYAM BABU GAUTAM **MEMBER (TECHNICAL)**	**BHASKARA PANTULA MOHAN** **MEMBER (JUDICIAL)**