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**IN THE NATIONAL COMPANY LAW TRIBUNAL,
SINGLE BENCH, CHENNAI**

MA/303/2018 in CP/577/IB/CB/2017
filed by the Resolution Professional viz.,
Mr. S. Dhanapal under Section 33(1)(a) of
the Insolvency and Bankruptcy Code,
2016.

In the matter of

M/s. Larsen & Toubro Limited.

... Operational Creditor

Vs.

M/s. Hallmark Living Space Private Limited.

... Corporate Debtor

Order delivered on 17th of August, 2018

CORAM:

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

For Resolution Professional : Mr. A.M.Elango, Counsel

ORDER

Per: CH.MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. The Miscellaneous Application No.303/2018 has been filed in CP/577/IB/CB/2017 on 19.06.2018 by the Resolution Professional viz., Mr. S. Dhanapal, under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016, (in short 'I&B Code, 2016'). The prayer made by the Resolution Professional *inter alia* is to seek an order for liquidation of the Corporate

Debtor viz., M/s. Hallmark Living Space Private Limited.

2. Originally, CP/577/IB/CB/2017 was filed under Section 9 of the I&B Code, 2016, by the Operational Creditor viz., M/s. Larsen & Toubro Limited against the Corporate Debtor viz., M/s. Hallmark Living Space Private Limited, which was admitted by this Authority vide its Order dated 26.09.2017; the CIRP was initiated against the Corporate Debtor; the moratorium was declared and the Applicant viz., Mr. S. Dhanapal, was appointed as Interim Resolution Professional (IRP) in the matter.

3. The Resolution Professional has stated that the Committee of Creditors (CoCs) was constituted and in its 1st Meeting held on 25.10.2017 had unanimously proposed to appoint the Applicant viz., Mr. S. Dhanapal, as Resolution Professional for the Corporate Debtor, copy of minutes of 1st meeting of the CoCs is placed at pages 37 to 49 of the typed set filed with the Application.

4. It is averred by the Resolution Professional that invitation for 'Expression of Interest' (EoI) was duly advertised in two newspapers one in English and another in vernacular having wide circulation, on 26.12.2017 and 28.12.2017 respectively, mentioning therein the last date for submission of Resolution Plans as 18.01.2018 by eligible Resolution Applicants. The copy of the advertisement is placed at pages 50 to 52 of the typed set filed with the Application. It is further stated that one Resolution Applicant has shown interest and the Information Memorandum was circulated to the prospective Resolution Applicant to submit the Resolution Plan, but no Resolution Plan was received by the Resolution Professional within the stipulated time from the prospective Resolution Applicant.

5. It is stated by the Resolution Professional that in 2nd meeting of the CoCs held on 31.01.2018, the CoCs has approved to make application before this Authority seeking extension of period of CIRP by 90 beyond 180

days; copy of the minutes of 2nd meeting of the CoCs is placed at pages 73 to 98 of the typed set filed with the Application. It is further stated that as per the decision of the CoCs, the Resolution Professional has filed an Application CA/123/2018 and this Authority vide its Order dated 16.03.2018 has extended the period of CIRP by 90 days with a direction to the Resolution Professional to file appropriate Application before the expiry of the period of CIRP.

6. It is averred that as per the discussion made in 3rd meeting of the CoCs held on 03.04.2018, the Resolution Professional has made another invitation for 'EoI' which was advertised in two newspapers one in English and another in vernacular having wide circulation, on 10.04.2018, and thereafter, one Resolution Applicant showed interest and sent a mail asking for the detail, and the Information Memorandum was provided to him by the Resolution Professional, but no Resolution Plan was received by the Resolution Professional.

7. Therefore, it is averred that, as there was no Resolution Plan to be approved by the CoCs, the CoCs in its 4th meeting held on 12.06.2018, has unanimously recommended liquidating the Corporate Debtor viz., M/s. Hallmark Living Space Private Limited. The operative part of the Resolution reads as follows: -

“Resolved that subject to the approval of Honourable National Company Law Tribunal, Chennai Bench and the applicable provisions of the Insolvency and Bankruptcy Code, 2016 read with Regulations thereon, approval of committee of creditors be and is hereby accorded to move an application with Honourable National Company Law Tribunal, Chennai Bench under Section 33 of the Insolvency and Bankruptcy Code, 2016 read with Regulations thereon for initiation of liquidation of the Corporate Debtor in view of the non-receipt of Resolution Plans for “Hallmark Living Space Private Limited.

Further Resolved”

8. A perusal of the Minutes of the Meeting of the CoCs dated 12.06.2018 reveals that till the expiry of the maximum period of CIRP, no Resolution Plan was approved by the CoCs under Sub-section (4) of Section

30 of the I&B Code, 2016. Under these circumstances, the case falls within the purview of Section 33(1)(a) of the I&B Code, 2016, as no Resolution Plan has been received by this Authority, till the expiry of the maximum period permitted for completion of the CIR Process under Section 12 of the I&B Code, 2016.


ORDER

9. In view of the facts and circumstances recorded by Resolution Professional in MA/303/2018 filed in CP/577/IB/2017, this Adjudicating Authority did not receive any Resolution Plan under Sub-section (6) of Section 30. Therefore, in exercise of powers conferred under Sub-Clauses (i) (ii) and (iii) of Clause (b) of Sub-Section (1) of Section 33 of the I&B Code, 2016, this Authority proceeds to pass Liquidation Order as follows:-

- i. This Authority hereby orders for liquidation of the Corporate Debtor viz., M/s. Hallmark Living Space Private Limited, which shall be

conducted in the manner as laid down in Chapter III of part II of the I&B Code, 2016;

- ii. This Authority hereby appoints Mr. S. Dhanapal as Company Liquidator, who shall issue a public announcement stating therein that the Corporate Debtor is in liquidation;
- iii. The moratorium declared under Section 14 of the I&B Code, 2016, shall cease to have effect from the date of the order of liquidation;
- iv. Subject to Section 52 of the I&B Code, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.

- v. This Authority makes it clear that para (iv) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.
- vi. This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- vii. All the 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 Company Liquidator viz., Mr. S. Dhanapal. In addition to this, the Company Liquidator shall exercise the powers and duties as enumerated in 

Sections 35 to 50, 52 to 54 of the I&B Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

- viii. The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.
- ix. The Company Liquidator shall be entitled to charge such fee for the conduct of the liquidation proceedings in such a proportion to the value of the liquidation estate assets as may be specified by the Board. Accordingly, the fees of the conduct of the liquidation proceedings shall be paid to the Company Liquidator from the proceeds of the liquidation estate.

x. The Registry is directed to communicate this order with immediate effect to the concerned Registrar of Companies, RD, OL, Registered Office of the Corporate Debtor and Company Liquidator viz., Mr. S. Dhanapal, for information and compliance.

10. In terms of the above, MA/303/2018 in CP/577/IB/CB/2017 filed by the Resolution Professional under Section 33(1)(a) of the I&B Code, 2016, for initiation of the Liquidation Proceedings against the Corporate Debtor viz., M/s. Hallmark Living Space Private Limited stands **disposed of**.

11. The Order is pronounced in the open Court.


[CH. MOHD SHARIEF TARIQ]
MEMBER (JUDICIAL)

P. ATHISTAMANI