

(2023) 04 NCLT CK 0003

National Company Law Tribunal, Mumbai Bench Court II

Case No: I.A. No. 926 Of 2023 In CP (IB) No. 03 Of 2020

Gaurav Ashok Adukia

APPELLANT

Vs

Ezeego One Travel And Tours
Limited

RESPONDENT

Date of Decision: April 13, 2023

Acts Referred:

- Insolvency and Bankruptcy Code, 2016 - Section 7, 14, 33, 33(1)(a), 33(5), 34(8), 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 52, 53, 54
- Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 - Regulation 6

Hon'ble Judges: Kuldip Kumar Kareer, Member (J); Shyam Babu Gautam, Member (T)

Bench: Division Bench

Advocate: Bhargav Kosuru, Nidhi Chauhan

Final Decision: Allowed

Judgement

Shyam Babu Gautam, Member Technical

1. This is an Application under Section 33 of the Insolvency and Bankruptcy Code, 2016 (hereinafter called "the Code") by Mr. Gaurav Ashok Adukia, Resolution Professional (RP) of Ezeego One Travel & Tours Limited seeking orders for Liquidation of the Corporate Debtor.

2. On perusal of this Application, it is evident that the Company Petition No. 3 of 2020 filed by the Financial Creditor under Section 7 of the Code was admitted by this Tribunal vide an Order dated 9th March 2021 and the Applicant was appointed as the Interim Resolution Professional (IRP). A Public announcement in Form A was made pursuant to Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency

Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter called "CIRP Regulations") inviting the creditors of the Corporate Debtor to file their claims before the Applicant by 2nd April 2021. Subsequently, the Committee of Creditors (CoC) consisting of ten Financial Creditors was constituted post which a total of Nine (9) meetings were held in the course of the CIRP.

3. Pursuant to the approval of the CoC in its First Meeting held on 15th April 2021, Mr. Gaurav Ashok Adukia, the present Applicant, was appointed as Resolution Professional (RP) of the Corporate Debtor. Thereafter in their Second Meeting held on 2nd June 2021, the CoC discussed taking control of bank accounts, appointment of professionals and other facets related to the CIRP. In the Third Meeting of the CoC held on 19th July 2021, the publication of brief particulars of the invitation of Expression of Interest ("EOI"), the EOIs received, and other developments were discussed. Further, in the Fourth Meeting of the CoC held on 3rd September 2021, it was resolved, inter alia, to permit the Applicant to file an Application before this Tribunal seeking exclusion of the time period elapsed due to the pandemic and to seek extension of the CIRP period for 90 days. After filing of such Application, this Tribunal extended the CIRP period but declined the request for exclusion vide Order dated 5th October 2021. The Applicant appealed against this Order before the Hon'ble NCLAT and subsequently, vide Order dated 12th April 2022, the exclusion of the period of pandemic was allowed and the CIRP stood extended till 12th June 2022.

4. In the meantime, the Applicant undertook various actions for recovery of monies due to the Corporate Debtor and engaged technical professionals with the permission of the CoC. Further, in the Eighth Meeting held on 9th June 2022, it was resolved to seek permission of this Tribunal for extension of the CIRP period by 60 days which was granted and the CIRP period stood extended till 14th September 2022. In the Ninth Meeting of CoC held on 13th September 2022, the Applicant apprised the members of the CoC that no Resolution Plan was received and therefore, a resolution seeking Liquidation of the Corporate Debtor and the appointment of the Applicant as the Liquidator was placed before the CoC for their consideration.

5. The resolutions were put to vote in the meeting and were approved by the CoC with 99.46% vote share, the relevant portions of which are reproduced as under:

"RESOLVED that pursuant to Section 33, sub section (1)(a) of Insolvency and Bankruptcy Code, 2016 and other applicable provisions, if any, of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and Insolvency and Bankruptcy Board of India ("Liquidation Process Regulation") Committee of Creditors hereby approves that M/s Ezeego One Travel & Tours Limited, Corporate Debtor be liquidated;

RESOLVED FURTHER THAT the Committee of Creditors do hereby approve the fees of appointment of suitable legal professional(s), as may be deemed fit, for the purpose of seeking legal assistance for giving effect to this resolution and that the cost incidental for the same to be treated as Insolvency Resolution Process Cost of Ezeego One Travel & Tours Limited.

RESOLVED FURTHER THAT the Committee of Creditors hereby authorizes Mr. Gaurav Ashok Adukia, Resolution Professional and/or Liquidator to do all acts, deeds and matters as may be necessary to give effect to this resolution.”

6. Looking at the averments and submissions of the Applicant, we are of the considered opinion that this is a fit case for liquidation and, therefore, we hereby order the Liquidation of the Corporate Debtor with directions as follows:

a) The Corporate Debtor, Ezeego One Travel & Tours Limited, shall be liquidated in the manner as laid down in Chapter-III of the Code.

b) The present Applicant, Mr. Gaurav Ashok Adukia, the RP of Ezeego One Travel & Tours Limited is appointed as the Liquidator.

c) He shall issue public announcement stating that the Corporate Debtor is in liquidation.

d) The Moratorium declared under Section 14 of the Code shall cease to operate and a fresh Moratorium under Section 33(5) of the Code shall commence.

e) Subject to section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

f) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.

g) The liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.

h) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.

i) The Liquidator shall be entitled to such fees as may be specified by the Board in terms of Section 34 (8) of the Code.

j) 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.

k) Copy of the Order shall be furnished to the IBBI, to the Regional Director (Western Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Maharashtra, Mumbai, the Registered Office of the Corporate Debtor; and the Liquidator.

7. The **I.A. No. 926 of 2023** filed by the RP for Liquidation of the Corporate Debtor stands allowed.