

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH at AHMEDABAD
COURT 1**

IA 622 of 2019 in CP(IB) 515 of 2018

**Coram: Hon'ble Ms. HARIHAR PRAKASH CHATURVEDI, MEMBER (JUDICIAL)
Hon'ble Mr. PRASANTA KUMAR MOHANTY, MEMBER (TECHNICAL)**



**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF INDORE BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 27.02.2020**

Name of the Company: Shikhar Chand Jain RP For Dhanlaxmi Solvex
Pvt Ltd

V/s

COC of Dhanlaxmi Solvex Pvt Ltd & Anr

Section: Section 33(1),33(2),34(1) of the Insolvency &
Bankruptcy Code, 2016

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1.	Yuvraj Thakore	Advocate	Applicant (RP)	
2.	Komal P VASNIAR	ADV	For COC	

ORDER

The parties are represented through their respective Counsel.

Today the present matter is kept for pronouncement of order.

IA No. 622 of 2019 in CP (IB) No. 515 of 2018 is allowed. Detailed order is recorded vide separate sheet.


(PRASANTA KUMAR MOHANTY)
MEMBER (TECHNICAL)


(HARIHAR PRAKASH CHATURVEDI)
MEMBER (JUDICIAL)

Dated this the 27th day of February, 2020.

**BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
INDORE BENCH
AHMEDABAD**

I.A. No. 622/NCLT/AHM/2019
In
C.P. (I.B.) No.515/7/NCLT/AHM/2018

*(Under Section 33 read with Section 34 of the
Insolvency and Bankruptcy Code, 2016)*

In the matter of:

SHIKAR CHAND JAIN
Resolution Professional for
Dhanlaxmi Solvex Private Limited, Applicant

Versus

1. COMMITTEE OF CREDITORS OF
DHANLAXMI SOLEX PVT. LTD.,
State Bank of India, Lead Bank
having office at – Stressed Assets
Management Branch, First Floor,
Plot No.01, Arera Hills, Bhopal
(MP) – 462 011

2. DHANLAXMI SOLVEX PRIVATE
LIMITED
Suspended Management having
its Registered Office at – 201,
Bansi Plaza, 581 M.G.Road,
Indore – 452 001 (MP) Respondents

Order delivered on 27th February, 2020

**Coram: Hon'ble Mr. Harihar Prakash Chaturvedi, Member (J)
And
Hon'ble Mr. Prasanta Kumar Mohanty, Member (T)**

Appearance:

Mr.Yuvraj Thakore & Mr.Jaimin R. Dave, Advocates for the
Applicant

Mr.Kunal P. Vaishnav, Advocate for the CoC/Respondents





[Per: Mr. Prasanta Kumar Mohanty, Member(T)]

1. This I.A. No.622 of 2019 has been filed under Section 33(1), 33(2) and 34(1) of the Insolvency and Bankruptcy Code, 2016 by the Resolution Professional, Mr.Shikhar Chand Jain before this Tribunal, seeking liquidation of the Corporate Debtor on the ground that no resolution plan has been received by him, hence this application under Section 33 of the Insolvency and Bankruptcy Code, 2016.
2. The Financial Creditor filed a petition for initiation of Corporate Insolvency Resolution Process under Section 7 of the Code and an admission order was passed by this Adjudicating Authority on 02.04.2019, wherein moratorium was declared under Section 14 of the Code and appointed the Applicant, Mr.Shikhar Chand Jain as Interim Resolution Professional. The Interim Resolution Professional issued public announcement in Form -A under Regulation 6 of the IBB I(Insolvency Resolution Process for Corporate Persons) Regulations 2016, on 07.04.2019 & 08.04.2019, wherein the Creditors were called upon to submit the proof of their claim on or before 16.04.2019.



3. The Applicant says that first meeting of CoC was held on 03.05.2019, wherein the five secured Financial Creditors attended the meeting and Mr.Shikar Chand Jain, Interim Resolution Professional was appointed as Resolution Professional in accordance with the Code. Further, the Applicant received the claims from the Financial Creditors (Secured and Unsecured) of the Corporate Debtor for formation of the Committee of Creditors.
4. A summary of the final claims received are as under: -

Claim from Financial Creditor(Secured)

Name of Financial Creditor (Secured)	Amount claimed by the creditors (Amount in Rs.)	Amount Admitted (Amount in Rs.)	% of Claim
State Bank of India	3230209958.73	3230209958.73	54.36%
Bank of Baroda	1181317262.00	1165683893.00	19.62%
Union Bank of India	986118074.00	986118074.00	16.59%
Bank of Maharashtra	403081617.00	400025167.00	6.73%
Dena Bank (Now merged with Bank of Baroda)	87052183.49	87052183.49	1.46%
Madhya Pradesh Financial Corporation	73689184.00	73689184.00	1.24%
Total	5961468279.22	5942778460.00	100.00%

Claim from Financial Creditor(Unsecured) – Nil

Claim from Related Parties to Corporate Debtor – Nil

Claim from Operational Creditors (Non-Government)

Sr. No.	Nature of Operational Creditor	Amount claimed (Amount in Rs.)
1	Dhanraj Foods Private Limited	35803189.00
2	M/s.Kushal Trading & Co. (Proprietor – Mr.Sanjay Kumar Jain)	12004038.00
3	Swastik Coal Corporation Private Limited	769874.00
	Total	48577101.00

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Claim from Operational Creditors (Government)

Sr. No.	Nature of Statutory Authority	Amount claimed (Amount in Rs.)
1	MP Industrial Development Corporation Limited	11438296.00

Claim from Employees has been received for an amount of Rs.3081273.00, which has been admitted.

5. The second CoC meeting was held on 15.06.2019, wherein the resolution was passed to call for expression of interest from prospective Resolution Applicants and subsequently the CoC approved the publication for calling expression of interest to be published in newspaper. Pursuant to the newspaper advertisement, calling for expression of interest, 4 parties submitted the expression of interest. It is further submitted that the said parties were provided with the requisite eligibility criteria. However, none of the 4 parties has submitted the expression of interest along with the requisite documents and earnest money deposit till the last date for submission of expression of interest on 04.07.2019.
6. It is submitted that once again call for expression of interest was published in newspaper; however, none of

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the parties expressed its interest in submission of the expression of interest till the last date for submission of expression of interest on 14.08.2019.

7. Further, since none of the prospective resolution Applicant submitted expression of interest, the CoC in their 4th meeting held on 07.09.2019, resolved to file the present application as none has come forward pursuant to the publication of expression of interest and accordingly authorised the RP to file application for liquidation of Corporate Debtor before this Tribunal. Further, the RP has given his consent in writing to act as Liquidator of Corporate Debtor and the CoC has also resolved to appoint the Applicant as Liquidator of the Corporate Debtor under Section 34 of the Code.

8. The documents filed in support of this present application reveal that six Financial Creditors have filed their claims, the said claims were admitted for INR 5,94,27,78,460.22Ps, Operational Creditors (Non-Govt.) filed claims to the extent of INR 4,85,77,101.00, but the said claim admission is pending for further clarifications/information, Operational Creditor (Govt.) Statutory Authority has also filed claim for INR



1,14,38,296.00, which is also pending for further clarifications/information and five Employees have filed their claims and the said claims were admitted for INR 30,81,273.00.

9. It is submitted that pursuant to the provisions of Regulation 27 of the Insolvency and Bankruptcy Board of India (CIRP) Regulation, 2016, RP has appointed valuers within the time prescribed under Regulation 40A of Insolvency and Bankruptcy Board of India (CIRP) Regulation, 2016. Accordingly, it is submitted by the Applicant that the value of the liquidation assets of the Corporate Debtor is around INR 38 to 40 Crores.

10. Accordingly, the Applicant has prayed for the following reliefs –

- a) *To allow the present application;*
- b) *To pass an order under Section 33(1) and 33(2) of the Insolvency and Bankruptcy Code, 2016 for liquidation of the Corporate Debtor having CIN: U15141MP2006PTC018304;*
- c) *To pass an order under Section 34(1) of the Code for appointing the Applicant as the Liquidator as resolved in the 4th CoC meeting;*
- d) *Direct the Applicant to make public announcement stating that the Corporate Debtor is in Liquidation;*
- e) *Direct the Applicant to serve a copy on the Registrar of Companies;*
- f) *Hold and declare that all the powers of the Board of Directors, key Managerial Persons, as the case may be shall cease to have effect and be vested in the Applicant in the capacity of the Liquidator of the Corporate Debtor.*

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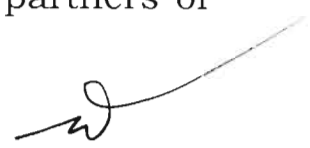
g) Direct that the personnel of the Corporate Debtor shall extend full co-operation and assistance to the Applicant in carrying our Liquidation process;
h) To grant any other relief or reliefs as may deem fit in the interest of justice.”

11. Having gone through the papers submitted by the RP and the arguments of the Learned Lawyer of the RP, we are of the view that present application filed under Section 33(1) and 33(2) of the Insolvency and Bankruptcy Code, 2016 for liquidation of the Corporate Debtor, Dhanlaxmi Solex Private Limited and resolution passed by the CoC with a voting percentage of 100% needs to be passed. Hence, the Corporate Debtor is ordered to be liquidated.

12. Consequently, the RP, Shri Shikhar Chand Jain, Reg. No. IBBI/IPA-001/IP-P00495/2017-18/10883, as per the resolution of CoC and written consent, is **appointed as the Liquidator as provided under Section 34(1) of the Code.**

13. As envisaged under Section 34(2) of Insolvency and Bankruptcy Code, 2016, on the appointment of a liquidator under this section, all powers of the Board of Directors, key managerial personnel and the partners of

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the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the Liquidator.

14. The personnel of the Corporate Debtor shall extend all assistance and cooperation to the liquidator as may be required by him in managing the affairs of the Corporate Debtor and provisions of Section 19 shall apply in relation to voluntary liquidation process as they apply in relation to liquidation process with the substitution of references to the liquidator for references to the Interim Resolution Professional.

15. Since Liquidation order has been passed, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor under Section 33(5) of the Insolvency and Bankruptcy Code, 2016, save and except as mentioned in Section 52 of the Code. However, a suit or other legal proceedings may be instituted by the Liquidator on behalf of the Corporate Debtor with the prior approval of this Adjudicating Authority.

16. As envisaged under Section 33(6) of the Insolvency and Bankruptcy Code, 2016, the provision of Sub-section 5 of Section **33 shall not apply to legal proceedings in**

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relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.


17. **This order for Liquidation under Section 33(7) 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.**
18. The Liquidator shall charge such fee for the conduct of Liquidation proceedings and in such proportion to the value of the Liquidation estate assets, as may be specified by the Board as envisaged under Section 34(8) of Insolvency and Bankruptcy Code, 2016.
19. The Liquidator appointed herein is **directed to issue public announcement in Form B of Schedule II within 5 days from the date of appointment stating that the Corporate Debtor is in liquidation and also required to send the copy of this order to the concerned Registrar of Companies as required under Section 33(1) of the Code.**



20. The Liquidator is hereby advised to **adhere to the time limit as stipulated for completion of Liquidation process and perform all his functions and duties contemplated interalia in Section 35, 36, 37, 38, 39, 40, 41, 43, 45, 50, 53, 54 of Insolvency and Bankruptcy Code, 2016 and Rules of 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 23, 25, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42, 44, 45 & 46 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 with utmost dedication, honesty and strictly in accordance with the provisions of the Code, Rules and Regulations.**

21. Accordingly, this application is hereby allowed, directing the Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016 by following the liquidation process given in Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016.


(Prasanta Kumar Mohanty),
Adjudicating Authority
Member(T)


(Harihar Prakash Chaturvedi),
Adjudicating Authority
Member(J)