



**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT V**

I.A. 900 OF 2021

IN

CP (IB) – 3179/IBC/MB/2019

Under Section 33 (1) of the Insolvency &
Bankruptcy Code, 2016

Filed by

Mr. Manoj Kumar Jain

Resolution Professional for:

Pacific Multi-Commodity Ltd.

...Applicant

In the matter of

**Stepping Stone Financial Services
Private Limited**

...Financial Creditor

Versus

Pacific Multi-Commodity Limited

...Corporate Debtor

Order Delivered On: 03.01.2023

Coram:

Hon'ble Shri Kuldip Kumar Kareer, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

Appearance(Via Videoconferencing):

For the Applicant: Mr. Yahya Batatawala, Advocate

Per: Anuradha Sanjay Bhatia, Member (Technical)



1. The above application I.A. No. 900/2021 is filed by Resolution Professional, Mr. Manoj Kumar Jain (hereinafter referred to as the **“Applicant”**) seeking liquidation of Pacific Multi-Commodity Ltd. (hereinafter referred to as the **“Corporate Debtor”**) under Section 33 (1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as **“the Code”**), praying for following reliefs:

- a. *To pass an order under Section 33 of the Insolvency and Bankruptcy Code, 2016 to initiate the Liquidation Process against Corporate Debtor.*
- b. *To pass such other order or orders as the Hon’ble Tribunal shall deem fit and expedient.*

2. The brief facts of the application are as follows:

A. The Applicant mentions that this Tribunal vide its order dated 02.01.2020 in Company Petition No. 3179/IBC/MB/2019 admitted the petition under Section 7 of the Code, filed by Stepping Stone Financial Services Private Limited (hereinafter referred to as the **“Financial Creditor”**) and Corporate Insolvency Resolution Process (hereinafter referred to as the **“CIRP”**) was initiated against the Pacific Multi-Commodity Limited (hereinafter referred to as the **“Corporate Debtor”**). Mr. Manoj Kumar Jain was appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal.

B. Applicant submits that a Public Announcement in Form-A was made on 07.01.2020 in two newspapers viz. “Financial



Express” and “Mumbai Lakshadeep (Marathi)” thereby inviting claims from all the Creditors to be filed by 21.01.2020.

- C. On 10.02.2020, the 1st meeting of the Committee of Creditors (hereinafter referred to as the “CoC”) was convened, wherein the Applicant was appointed as the Resolution Professional, which is approved by 100% members, voting in favour of the same.
- D. The Applicant further submits that, in the 2nd CoC Meeting dated 06.03.2020, a Resolution was passed for appointment of Registered Valuers. Accordingly, Resolution Professional has appointed two valuers as required under Regulation 27 of IBBI (IRP for corporate persons) Regulation, 2016.
- E. The Applicant had issued, Form-G, Inviting Expression of Interest (EOI), dated 14.03.2020, in which the last date of receipt of EOI was 30.03.2020 and the last date for the Submission of Resolution Plan was 15.05.2020.
- F. The Applicant submits that, in the 3rd CoC meeting dated 10.08.2020, no Expression of Interest was received. The Applicant further submits that 180 days had expired on 30.06.2020, Therefore, the sole COC member with 100% voting decided to liquidate the Corporate Debtor.
- G. The Applicant further submits that, in 4th CoC meeting dated 31.10.2020, Applicant informed the CoC that he was not be able to give consent for appointment as the Liquidator due to his health concerns and further informed the CoC that Ms. Nishi Jain had agreed to act as Liquidator and had provided her consent to act as Liquidator in writing dated 30.10.2020.



3. After hearing the submissions made by the learned counsel appearing for the Applicant and upon perusing the material available on record, the learned counsel for the Applicant submits that no viable Resolution Plan has been received and there is no option, except to put the Corporate Debtor Company into Liquidation, as per the Code.

Since it is observed from the minutes of the 3rd COC meeting that the COC, with required mandate of 100% voting, approved to liquidate the Corporate Debtor in view of not getting any viable Resolution Plans, this Tribunal has very limited judicial review in such matters of commercial wisdom, therefore there is no option except to allow the above Liquidation Application. The COC thereby has appointed Ms. Nishi Jain (IBBI Registration No. IBBI/IPA-001/IP-P-01662/2019-2020/12664) as Liquidator to carry on the process of Liquidation of the Corporate Debtor. The proposed Liquidator has agreed to act as Liquidator to carry on the process of Liquidation and given his consent to act as Liquidator. This bench, therefore feels this is a fit case for ordering Liquidation of the Corporate Debtor, Accordingly, the above Interlocutory Application Number 900 of 2021 is allowed directing the Liquidation of the Corporate Debtor. Accordingly, we pass the following:

ORDER

1. The above I.A. No. 900/2021 is allowed and the Corporate Debtor, Pacific Multi-Commodity Limited is ordered to be liquidated.
 - a. **Ms. Nishi Jain** having IBBI Registration No. IBBI/IPA-001/IP-P-01662/2019-2020/12664, having office at: A-102 , Krishna tower near childrens academy school, Ashok



Nagar Kandivali East, Mumbai Suburban-400101, is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.

- b. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees of Rs. 1,50,000 Plus Rs. 75,000/- out of pocket expenses and outsider professional services on actuals.
- c. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- d. The Liquidator appointed 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.
- e. 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.
- f. 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.



- g. 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.
- h. 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.

With the above directions, this application i.e. I.A. No. 900 of 2021 is hereby **allowed** and disposed of.

Sd/-

Anuradha Sanjay Bhatia
Member (Technical)

Sd/-

Kuldip Kumar Kareer
Member (Judicial)