

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

**I.A. 2507 OF 2020**

Under Section 33 of Insolvency &  
Bankruptcy Code, 2016

Filed by

**Mr. Mahesh Kumar Gupta**

Resolution Professional of:  
Teemper Lifestyle Pvt. Ltd.

...Applicant

In the matter of

**C.P. No. 1257 of 2019**

**Rudra Inc.**

**440 Kewal , Ind. Estate,**

**4<sup>th</sup> Floor, S. B. Marg, Lower Paral (W)**

**Mumbai 400013**

...Petitioner

Versus

**Teemper Lifestyle Pvt. Ltd.**

**601, Pluto, B. Wing, Vasant Galazy, bangur**

**Nagar, Goregaon (W) Mumbai 400104**

**Order delivered on: 17.03.2021**

**Coram:**

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Shri Shyam Babu Gautam, Member (Technical)

**Appearance:**

For the Resolution Professional: Saiyed Sahil M. Nagamiya

***Per: Shri H.V. Subba Rao, Member (Judicial)***

**ORDER**

1. It is an application filed by Resolution Professional, Mr. Mahesh Kumar Gupta seeking liquidation of M/s Teemper Lifestyle Pvt. Ltd. (hereinafter referred as Corporate Debtor) under Section 33(1) (a) and 34 (1) of Insolvency and Bankruptcy Code, 2016 (hereinafter called as "the Code"), praying for following reliefs:

- a. That this Hon'ble Tribunal be pleased to pass an order liquidating the Corporate Debtor Teemper Lifestyle Pvt. Ltd. and appoint the Applicant Mahesh Kumar Gupta (having IP Registration No. IBBI/IPA-001/IP-P00478/2017-2018/10866) as the liquidator to the Corporate Debtor;*
  - b. That this Hon'ble Tribunal upon grant of prayer (a) above be pleased to issue appropriate orders and directions to the Applicant;*
    - i. To publish order of liquidation of the Corporate Debtor in the newspaper as this Hon'ble Tribunal deem fit and proper;*
    - ii. to file the order for liquidation with the relevant Registrar of companies within such period as this Tribunal deem fit and proper*
  - c. Pass any other order or directions as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case especially for the purpose of initiation of liquidation of the Corporate debtor Teemper Lifestyle Pvt. Ltd.*
2. The counsel for the Applicant submitted that this Tribunal vide an order dated 11.10.2019 in Company Petition No. 1257 of 2019 admitted the petition under Section 9 of the Code, filed by Rudra Inc (hereinafter referred to as the "Operational Creditor") and Corporate Insolvency Resolution Process (CIRP) was initiated against Teemper Lifestyle Pvt. Ltd., (hereinafter called as the "Corporate Debtor"). The applicant herein was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor by this Tribunal vide this Order. Upon his appointment as the IRP, the applicant published a public announcement of CIRP in Form A dated 10.01.2020 in two newspapers inviting claims from all the creditors of the Corporate Debtor. The Committee of Creditors (CoC) was formed and the 2<sup>nd</sup> meeting was held on 18.03.2020 wherein the CoC approved resolution allowing Insolvency Resolution Professional (IRP) to continue as Resolution Professional (RP).
3. The CoC in its 5<sup>th</sup> meeting which was held on 05.12.2020, the CoC decided to liquidate the company as the unit is not in operation since

long and there are no workers and employees. No Expression of Interest is received from any prospective resolution applicant. Therefore, the Committee of Creditors approved initiation of liquidation of the corporate debtor by passing the resolution and directed the Resolution Professional to file miscellaneous application and seek further directions and order under section 33(1)(a) and 34(1) of the code from this Tribunal by passing the following resolution with voting share of 100%.

*“RESOLVED THAT, the operation of the Corporate Debtor be recommended for liquidation and an application be filed to NCLT, Mumbai for the approval of liquidation*

*IT WAS FURTHER RESOLVED THAT since the operation of the CORPORATE DEBTOR are already closed it is also recommended to liquidate the Corporate Debtor not as a going concerned basis.*

*IT WAS FURTHER RESOLVED THAT Mr. Mukesh Kumar Gupta, the present Resolution Professional be appointed as Liquidator of the Corporate Debtor on a total fee of Rs. 29,00,00/- all inclusive plus GST if any. This appointment of liquidator will be valid from the date of liquidation order to be passed by NCLT, Mumbai and*

*IT WAS FURTHER RESOLVED THAT till the passing of the Liquidation Order the present Resolution Professional will be continuing as Resolution Professional on the terms & Conditions as approved earlier.”*

### **ORDER**

We have heard the Applicant and perused all the documents submitted by them. It is observed from the minutes of the 5<sup>th</sup> CoC meeting that the CoC has, with 100% majority, decided to liquidate the Corporate Debtor and relying on the settled principle of law regarding the Commercial Wisdom of the CoC, we hereby allow this Interlocutory Application Number 817 of 2020 with the following observations and directions:

- a. **Mr. Mukesh Kumar Gupta**, having Registration No. IBBI/IPA-001/IP-P00478/2017-18/10866 and having office at: 202, New Heera Panna Industrial Estate, Goregaon (East), 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 as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
- 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. Will have 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. 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.
- g. 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.

- h. 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.
- i. 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. 2507 of 2020 is hereby allowed and disposed of.

Sd/-

**SHYAM BABU GAUTAM**  
**MEMBER (TECHNICAL)**

Sd/-

**H.V. SUBBA RAO**  
**MEMBER (JUDICIAL)**