



**THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH: C-IV**

**IA-39(MB)2024**

Under Section 33 of Insolvency &  
Bankruptcy Code, 2016.

**Mr. Harish Kant Kaushik**

...Resolution Professional/  
Applicant

*In the matter of*

**C.P.(IB)/543(MB-IV)2022**

**State Bank of India**

...Financial Creditor

Vs.

**Rajmal Lakhichand Jewelers  
Private Limited**

(CIN: U24230MH1997PTC110243)

...Corporate Debtor

Ordered pronounced on: **11.06.2024**

***Coram:***

Ms. Anu Jagmohan Singh  
Hon'ble Member (Technical)

Shri Kishore Vemulappalli  
Hon'ble Member (Judicial)

***Appearances:***

For the Applicant/RP/Liquidator : Mr. Tanmay Kelkar, Adv.



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**ORDER**

1. This is an application filed by **Mr. Harish Kant Kaushik**, Resolution Professional of the Corporate Debtor seeking liquidation of **Rajmal Lakhichand Jewelers Private Limited** under Section 33 of Insolvency and Bankruptcy Code, 2016 (hereinafter called as the “Code”).
2. **Brief facts of the Application are as follows:**
  - a. This Tribunal vide an *order dated 09.02.2023*, in Company Petition bearing *C.P.(IB)/543(MB)2022* filed under Section 7 of the Code, by **State Bank of India** (hereinafter referred to as the “**Financial Creditor**”), admitted the Company Petition and Corporate Insolvency Resolution Process (“**CIRP**”) was initiated against **Rajmal Lakhichand Jewelers Private Limited** (hereinafter called as the “**Corporate Debtor**”) and appointed **Mr. Harish Kant Kaushik** as Interim Resolution Professional by this Tribunal and was confirmed as Resolution Professional in the 1<sup>st</sup> CoC meeting held on 10.03.2023.
  - b. Pursuant to the above said Order, the Applicant herein issued a Public Announcement in two Newspapers, on 12.02.2023, in FORM A, thereby calling upon the Creditors




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of the Corporate Debtor to file their claims, along with proof on or before 24.02.2023.

- c. Pursuant to the said Approval, the Applicant had issued Form-G - Invitation for Expression of Interest (EoI) dated 18.04.2023.
- d. Ld. Counsel stated that the Applicant also informed the CoC that he had received EoIs from various PRAs upon which a provisional list of PRAs was issued by him on 29.05.2023 which was duly shared with the members of the CoC.
- e. Ld. Counsel further submits that the Applicant apprised the CoC that out of the three PRAs only one PRA has requested to extend the last date for submission for resolution process by 15 days.
- f. Ld. Counsel for the Applicant submits that the State Bank of India opined that due to non-availability of all the information and data there was no interest in the CIRP of the Corporate Debtor and that a fresh Form-G should be published, and resolution process should start afresh. The Representative of the ASREC India, the other member of the Committee of Creditors, also concurred with the views of State Bank of India.



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- g. Ld. Counsel for the Applicant stated that vide order dated 11.08.2023, the Bench granted extension of CIRP period of the Corporate Debtor by 90 days.
- h. Ld. Counsel for the Applicant submits that the Applicant informed the Committee of Creditors that based on Form-G published on 14.07.2023, four EoIs were received in the resolution process and he had issued a provisional list of the PRAs on 23.08.2023.
- i. Ld. Counsel for the Applicant further stated that the Applicant informed the members of the Committee of Creditors that based on the Form-G published on 14.07.2023, and basis the verification of the EoI documents, a list of PRAs was issued on 23.08.2023 and final list of PRAs was issued on 28.08.2023.
- j. Ld. Counsel for the Applicant submits that 7<sup>th</sup> meeting of the CoC of the Corporate Debtor was held on 11.10.2023, the Applicant apprised the members that he had not received any Resolution Plan from the PRAs as on the last date of receipt of Resolution Plan i.e., 27.09.2023.
- k. Ld. Counsel for the Applicant submits that the members after due discussion agreed that considering that Form-G had been issued twice in the resolution process of the



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Corporate Debtor and last date of CIRP was 05.11.2023, extension of the last date of resolution process would not be feasible. The Representative of the State Bank of India opined that after considering that extension of 90 days, would be expiring on 05.11.2023, liquidation would be the last resort.

1. It is submitted that the 8<sup>th</sup> meeting of the CoC of the Corporate Debtor was held on 08.01.2024. The Applicant stated that the agenda of the Liquidation of the Corporate Debtor was put up before the CoC, the same was approved with the majority of 98.21% of the votes to proceed with the liquidation of the Corporate Debtor. The relevant extract of the Resolution is reproduced below :-

*“While deciding to liquidate the corporate debtor under section 33, the committee shall examine whether to explore compromise or arrangement as referred to under sub - regulation (1) of regulation 2B of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016 and the resolution professional shall submit the committee's recommendation to the Adjudicating Authority while filing application under section 33.”*

3. Hence, the present Interlocutory Application has been filed for seeking Liquidation of the Corporate Debtor.



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4. This Bench is vested with the powers to pass an order of Liquidation of the Corporate Debtor; since, no Resolution Plan could be brought forth and voted for, and in the absence of any Resolution Plan on the table, the order of liquidation shall be passed by this Adjudicating Authority under Section 33 of the Code.
5. In that view of the matter, having considered the submissions and on perusal of averments made in the present Interlocutory Application; this Bench is satisfied and is of the considered opinion that the present Interlocutory Application is in consonance with Section 33(2) of the Code. Accordingly, this Authority has left with no option except to pass an order for Liquidation of the Corporate Debtor Company in the manner laid down in Chapter III of the Code considering the fact there is no Resolution Plan for consideration and CoC does not foresee any possibility of getting Plans for the Corporate Debtor. Hence ordered.

**ORDER**

- a) The Application be and the same is allowed. The Corporate Debtor, ***Rajmal Lakhichand Jewelers Private Limited***, shall be liquidated in the manner as laid down in Chapter-III of the Code.
- b) It is to be noted that, as per IBBI vide its circular no. LIQ-12011/214/2023-IBBI/840 dated 18.07.2023 in the exercise of its powers conferred u/s 34(4)(b) of the Code had recommended that an IP other than RP/ IRP may be appointed as a liquidator in all the cases where the Liquidator (read liquidation) order is passed henceforth. In view of this circular of IBBI, we hereby appoints **Mrs.**



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**Palak Swapnil Desai**, having Registration No. **IBBI/IPA-001/IP-P-01517/2019-2020/12515**; Email-palakdesai77@gmail.com as the Liquidator to conduct liquidation process of “**Rajmal Lakhichand Jewelers Private Limited**” as provided under Section 34(4) of the Code.

- c) 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.
- d) The Moratorium declared under Section 14 of the IBC 2016 shall cease to operate here from.
- e) Liquidator shall issue public announcement stating that Corporate Debtor is in liquidation.
- f) The Liquidator shall endeavour to sale the Company as a going concern during the liquidation in terms of Regulation 32A of the Liquidation Process Regulations. In case, he is not able to do so within a period of 90 days from this date, he shall proceed in accordance with clauses (a) to (d) of Regulation 32 of the Liquidation Process Regulations.
- g) **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.**



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- h) 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.
- i) 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 the Liquidation Process Regulations.
- j) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- k) 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.
- l) The Liquidator shall submit Progress Reports as per Regulation 15 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, and shall apprise the Bench about the Liquidation Process of the Corporate Debtor.
- m) **The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.**
- n) Registry shall furnish a copy of this Order to:
- i. **Insolvency and Bankruptcy Board of India, New Delhi;**
  - ii. **Regional Director (Western Region), Ministry of Corporate Affairs;**



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iii. **Registrar of Companies & Official Liquidator,**

**Maharashtra;**

iv. **Registered Office of the Corporate Debtor; and**

v. **Liquidator, Mrs. Palak Swapnil Desai.**

6. With the aforesaid observations and directions, the Interlocutory Application bearing IA No. 39 of 2024 IN C.P.(IB)/543(MB)2022, stands disposed of as **Allowed**. There would however be no order as to costs.

Ordered Accordingly

Sd/-  
**ANU JAGMOHAN SINGH**  
**Member (Technical)**

Sd/-  
**Kishore Vemulappalli**  
**Member (Judicial)**