

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV**

IA No. 1417/2022

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

Ms. Dipti Mehta
201-206, Shiv Smriti, 2nd Floor,
49A, Dr. Annie Besant Road,
Above Corporation Bank,
Worli, Mumbai-400018

Resolution Professional/
...Applicant

In the matter of

CP (IB) No.1327/MB/C-IV/2020

Makalu Trading Limited

...Operational Creditor

Vs.

Prarthna Private Limited

...Corporate Debtor

Order Pronounced on: 23.08.2022

Coram:

Mr. Manoj Kumar Dubey
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant/RP

: Mr. Dweep Joshi, Advocate

Per: Kishore Vemulapalli, Member (Judicial)

1. The application is filed by Ms. Dipti Mehta, Applicant/Resolution Professional, seeking liquidation of Prarthna Private Limited, (hereinafter referred as Corporate Debtor) under Section 33(1) (a) and 34(1) of Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”).
2. **The brief facts of the Application are as follows:**
 - A. That this Tribunal vide an order dated 26.11.2021 in C.P.(IB)1327(MB)/2020 admitted the petition under Section 9 of the Code, filed by Makalu Trading Limited (hereinafter referred to as the “Operational Creditor”) and Corporate Insolvency Resolution Process (CIRP) was initiated against Prarthna Private Limited, (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.
 - B. The Applicant Submits that, the IRP had made Public announcements through Form A dated 01.12.2021 in two daily leading newspapers viz Free Press Journal (English Newspaper) and Navakal (Marathi) inviting the claims from the Creditors of the Corporate Debtor as per

the Regulation 6(3) of the Insolvency and Bankruptcy Board of India (Insolvency Regulation Process for Corporate Persons) Regulations, 2016.

- C. The applicant submits that in response to the Publications, she received claims from one (1) Financial Creditor and two (2) Operational Creditors. On the basis of the claims received, the COC was formed and the report certifying the same was filed.
- D. In compliance to the provision of Section 22(2) of the Code, the COC appoints/confirms the Applicant as Resolution Professional (RP). The Applicant also appointed two valuers viz Mr. Jayesh Shah and Mr. Vishnu Upadhyay for valuation of the assets of the Corporate Debtor.
- E. In compliance of Regulation 36A of IBBI Corporate Insolvency Resolution Process Regulations, 2016, the Applicant subsequently published Form-G (Expression of Interest) on 08.02.2022 in two daily leading newspapers viz “The Free Press Journal” (English Newspaper) and “Navakal” (Marathi) to get prospective Resolution Applicants.
- F. However, no prospective Resolution Applicants have submitted their Expression of Interest to the Applicant/RP before the last date of submission which was on 24.02.2022. Subsequently, the Committee with

100% voting rejected the proposal of reissuance of Form-G.

- G. In the 5th COC meeting held on 21.03.2022, the Committee of Creditors (CoC) with 100% voting resolved for liquidation of the Corporate Debtor as a non-going concern and also resolved to appoint the Applicant as liquidator to complete the liquidation process.

“Resolved that on non-receipt of expression of interest from any resolution applicant for the Corporate Debtor before the deadline as mention in Form-G, which was February 24, 2022 the Committee with 100% voting agreed for liquidation of the Corporate Debtor as a non-going concern”.

“Further Resolved that liquidation Application to be filed by the Before the Hon’ble Bench after the sale of assets i.e. One Computer and One Air Conditioner as per regulation 29 of CIRP Regulations.”

“Further resolved that Resolution Professional has given her consent to act as liquidator at the remuneration of Rs.1,00,000/- exclusive of GST. The same being agreed by the Committee.”

“Further resolved that duties being carried out by the Resolution Professional after filing of liquidation application before the Hon’ble Bench till the liquidation is passed, Resolution Professional to get a remuneration of Rs.1,00,000/- exclusive of GST, till the receipt of liquidation order.”

The said resolution was passed with 100% majority of the COC Members which is annexed at Page 125 of the Application.

H. The Applicant submits that as per the list of assets and liabilities as on Insolvency Commencement Date i.e. 26.11.2021 the Corporate Debtor only had two assets. The COC in the 5th meeting proposed to sell both the assets in compliance with the Regulation 29 of the CIRP Regulations and consequently both were sold and the invoices raised for sale of assets is annexed as Exhibit K (Page 128 of the Application).

ORDER

- a. IA No. 1417/2022 filed by the Applicant for the Liquidation of 'Prarthna Private Limited' is allowed
- b. Ms. Dipti Mehta, Resolution Professional having Registration No. IBBI/IPA-002/IP-N00134/2018-19/10350 as liquidator to conduct Liquidation process of M/s Prarthna Private Limited is hereby appointed as the Liquidator in the matter as provided under Section 34(1) of the Code.
- c. That the Liquidator would be entitled for the fees to conduct the Liquidation Proceedings as decided in fifth COC meetings.
- d. 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.

- e. 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.
- f. 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.
- 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 u/s 33(7) 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.
3. With the above directions, the IA No. 1417/2022 filed u/s 33(1) by the applicant is hereby **Allowed and Disposed of**.
4. Record be consigned to record room.

Sd/-
MANOJ KUMAR DUBEY
Member (Technical)
23.08.2022

Sd/-
KISHORE VEMULAPALLI
Member (Judicial)