

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

27. I.A. 843/2021

I.A. 516/2021

In

C.P.(IB)-3344(MB)/2019

CORAM: SHRI H.V. SUBBA RAO, MEMBER (J)  
SHRI CHANDRA BHAN SINGH, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL  
COMPANY LAW TRIBUNAL ON **30.03.2022**

NAME OF THE PARTIES: Sureways Shipping Solutions

V/s

Sun Acrylics Pvt Ltd.

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

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**ORDER**

Mr. Vijay Lulla a/w Mr. Jesal Singh is present through virtual hearing.

**I.A. 516/2021**

The above application is filed for liquidation of the Corporate Debtor company.

The above application is allowed. Detailed order will follow.

List I.A. 843/2021 on **05.05.2022**.

Sd/-  
CHANDRA BHAN SINGH  
Member (Technical)

Sd/-  
H.V. SUBBA RAO  
Member (Judicial)

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

**I.A. No. 516 of 2021  
In  
C.P. No. 3344/IB/2019**

Under Section 33 of Insolvency &  
Bankruptcy Code, 2016

In the matter of  
Sureways Shipping Solutions  
... Operational Creditor  
V/s.  
Sun Acrylics Pvt. Ltd.  
... Corporate Debtor

**I.A. No. 516/2021**

Mr. Vijay P. Lulla  
... Applicant/  
Resolution Professional

**Order delivered on 30.03.2022**

**Coram:**

Hon'ble Shri H. V. Subba Rao, Member (Judicial)  
Hon'ble Shri Chandra Bhan Singh, Member (Technical)

**Appearance (through video conferencing):**

**For the Applicant:** Ms. Jesal Singh, Advocate  
Mr. Vijay Lulla, Resolution Professional-in  
person

**ORDER**

1. It is an application filed by the Applicant/ Resolution Professional, seeking liquidation of the Corporate Debtor namely (M/s. Sun Acrylics Pvt. Ltd.) on the ground that no resolution plan has been received by him, hence this application under Section 33 (1) of the Insolvency and Bankruptcy Code, 2016, praying following reliefs:

- a. To pass an order for liquidation of the Corporate Debtor;*
  - b. To appoint such person as the liquidator of the Corporate Debtor as the CoC may decide;*
  - c. To pass an order excluding the period of days lost due to lockdown;”*
2. The Adjudicating Authority vide its order dated 19.11.2019 on a Petition filed by the Operational Creditor under Section 9 of the Code directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor namely M/s. Sun Acrylics Pvt. Ltd., wherein Mr. Vijay P. Lulla, was appointed as Interim Resolution Professional (IRP). Thereafter, the Applicant was appointed as Resolution Professional (RP).
3. It is further submitted that an advertisement, inviting Expression of Interest (EoI) in Form A was published on 27.11.2019. pursuant to the publication the applicant received the claims from the various creditors.
4. The RP submits that in the 2<sup>nd</sup> CoC meeting held on 29.01.2020 it was decided to appoint a Valuer, accordingly, RP had appointed two registered valuers as required under Regulation 27 of the IBBI (IRP for Corporate Persons) Regulations, 2016 and the Information Memorandum was prepared as provided under Regulation 36(1) of the said regulation.
5. It is further submitted by the Counsel for the Applicant that an advertisement, inviting Expression of Interest (EoI) in Form G was published on 28.02.2020 in “Free Press Journal (English Edition) and Navshakti (Marathi Edition). Thereafter, no EoI was invited.

6. The Resolution Professional submits that an Expression of Interest was received by him from one or two Prospective Resolution Applicant (“PRA”), but they also refused to give EOI’s as the Company was not the sole owner of the entire factory. It’s sister concern Shree Ganesh Vyapar are housed in the same property namely, plot No. 33, 34 and 35 survey No. 66(pt), village Achhad Industrial Estate, Taluka-Talasrai, District-Palghar, owns 2/3<sup>rd</sup> of the property and hence they were not comfortable with the same as they were apprehensive of how title & possession will be transferred to them.
7. In the 5<sup>th</sup> CoC meeting held on 17.10.2020, the RP informed that he has received from the erstwhile management regarding their intention to opt for one time settlement (OTS) or submission of Resolution Plan. The representative of erstwhile management had a buyer, with a ready amount of Rs. 1.45 Crores. However, the CoC member clearly informed that the claim amount of Union Bank of India is approx. Rs. 9 Crores and it is not possible for the bank officials to set off a liability of approx. Rs. 9 Crores with OTS of Rs. 1.45 Crores.
8. The CoC in the 6<sup>th</sup> CoC meeting held on 09.11.2020, it was informed in the meeting that there are no chance of revival of the Corporate debtor Company. The following Resolution was passed;  

*“Resolved that the permission for filing liquidation application u/s. 33 of IC Code, 2016 is hereby approved.”*
9. Hence, the CoC in its 6<sup>th</sup> meeting held on 09.11.2020, with 100% voting rights passed a resolution for liquidating the company. Accordingly, the Resolution Professional filed this application for

liquidation of the Company as provided u/s. 33 of the Insolvency & Bankruptcy Code, 2016 (Code).

10. Upon hearing the submissions of the Applicant and on the perusal of the Application and the documents enclosed therein it is found, the RP has complied with the procedure laid down under the Code; Regulations made thereunder. The reasons assigned in the petition with regards to taking the decision of liquidation of Corporate Debtor by COC appears to be convincing. On verification, we are of the considered view that this is a fit case to pass liquidation order under sub-section 1 of section 33 of the Code for liquidation in the absence of any resolution plan. Hence ordered;

**ORDER**

- a. The Interlocutory Application No.516 of 2021 is hereby allowed.
- b. Mrs. Megha Agrawal, having Registration No. IBBI/IPA-001/IP-P01456/2018-2019/12272, herein is hereby appointed as Liquidator as provided under Section 34(1) 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 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. 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.
- h. 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.
- i. 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.

- j. 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.
- k. The Miscellaneous Application No. 620 of 2021 is hereby allowed and disposed of.

Sd/-  
**CHANDRA BHAN SINGH**  
**MEMBER (TECHNICAL)**

Sd/-  
**H. V. SUBBA RAO**  
**MEMBER (JUDICIAL)**