

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

IA. No. 641/2023

**In
CP(IB)No.4081/MB/C-II/2019**

*Application filed under section 33(1) (a) r/w 60(5)
of Insolvency and Bankruptcy Code, 2016 & Rule
11 of the National Company Law Tribunal Rules,
2016*

**Mr. Kamal Kishor Gurnani
Resolution Professional of
Shree Mahalaxmi Agro Farms Private Limited**

...Applicant

In the matter of

Bank of India

**...Financial
Creditor
V/s**

**Shree Mahalaxmi Agro Farms Private Limited
...Corporate
Debtor**

Order Pronounced on :- 24.02.2023

Coram:

**Hon'ble Member (Judicial) : Kuldip Kumar Kareer
Hon'ble Member (Technical) : Mr. Shyam Babu Gautam**

Appearances (through video conferencing)

For the Applicant

: Ms. Prajakta Menezes, Advocate

ORDER

Per- Shyam Babu Gautam, Member Technical

1. It is an application filed u/s 33(1) (a) & 60(5) of the Insolvency & Bankruptcy Code, 2016 (Code) r/w Rule 11 of the National Company Law Tribunal Rules, 2016 by Mr. Kamal Kishor Gurnani (RP) of Shree Mahalaxmi Agro Farms Private Limited seeking liquidation order and appointment of Applicant/RP as liquidator, based on the resolution passed by the CoC in its 12th meeting held on 07.02.2023 with a requisite majority as contemplated under I&B Code, 2016.
2. The Company Petition 4081 of 2019 was filed by the Financial Creditor under section 7 of the Code and was admitted by this Tribunal on 23.12.2021 and Corporate Insolvency Resolution Process (CIRP) was initiated and the Applicant herein was appointed as IRP and subsequently with the approval of the CoC was appointed as Resolution Professional by this Tribunal. A public announcement was made by the RP on 12.02.2022 in Times of India (English) and Kesari (Marathi).
3. In the 2nd CoC meeting held on 23.03.2022, the RP apprised the members of the CoC about the progress of the CIRP and the Corporate Debtor being in the business of mango growing, the members discussed about the sale of mangoes. In the 3rd CoC meeting held on 01.04.2022, a public notice for the sale of mangoes was published in Tarun Bharat

newspaper on 25.03.2022. in the 4th CoC meeting held on 19.04.2022, the CoC members were informed about the sale of mangoes was completed and the lump sum amount of Rs. 16,00,000/- had been deposited in the account of the Corporate Debtor.

4. Further, Form G for invitation of Expression of Interest (EoI) was published in the Business Standard (English) and Kesari (Marathi) on 23.04.2022 in Kolhapur and also on 24.04.2022 in Sindhudurg where the agricultural land of the Corporate Debtor was situated. The RP received six EoI. Information Memorandum, Evaluation Matrix and RFRP was shared with the PRA's. The last date for submission of Resolution Plan was fixed on 07.07.2022. Thereafter, as the CIRP period was getting over, the time period was further extended and last date for submission of the Resolution Plan was extended.
5. In the 9th CoC meeting held on 29.10.2022 the RP apprised the members of the CoC about the status on receipt of the Resolution Plan from the Prospective Resolution Applicants (PRA) i.e. Sunrise Industries Limited on 07.07.2022. However, the PRA was asked to revise the Resolution Plan as the Financial proposal was on a very lower side.
6. In the 10th CoC meeting held on 22.11.2022, the RP informed the members to extend the CIRP period further for 90 days and the period was extended by another 90 days beyond 270 days. Further the PRA had informed that the previous Resolution Plan submitted by them was final. The members of the CoC noticed that the PRA had not considered the observations of the Resolution Professional and the Plan was put to vote. The members of the CoC rejected the Resolution Plan.

7. In the 12th CoC meeting held on 07.02.2023, after due discussions the members of the CoC unanimously with 100% voting share passed a resolution for Liquidation of the Corporate Debtor and to appoint the Applicant, to act as liquidator. The relevant extract of the resolution passed in 12th CoC meeting is as follows:

“RESOLVED THAT, the consent of the members of Committee of Creditors be and is hereby accorded for Liquidation of the Corporate Debtor under Section 33 of the Insolvency and Bankruptcy Code, 2016”

“RESOLVED THAT the consent of members be and is hereby accorded to appoint Mr. Kamal Kishor Gurnani as the Liquidator of the Company and be paid a fee as per Regulation 4 (2) (b) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. .”

“RESOLVED FURTHER THAT Mr. Kamal Kishor Gurnani be and is hereby authorized to make necessary application for Liquidation of the Corporate Debtor under section 33 (1) of the Insolvency and Bankruptcy Code, 2016 and for the appointment of Liquidator in the manner of Shree Mahalaxmi Agro Farms Private Limited and to do all such act, deeds and things to give effect to the aforesaid resolution. .”

8. Looking at the application and averments, we are of the considered opinion that this is a fit case for liquidation, therefore, we hereby order for liquidation of the company with directions as follows:

- a. The **Mr. Kamal Kishor Gurnani**, holding Registration No. **IBBI/IPA-001/IP-P01463/2018-2019/12338**, is appointed as the

Liquidator in terms of Section 34 of the Code;

- b. Registry is directed to communicate this Order to the Registrar of Companies, Pune and to the Insolvency and Bankruptcy Board of India;
- c. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- d. This order shall be deemed to be a notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- e. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant rules and regulations.
- f. The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.
- g. The liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.
- h. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the

liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016;

- i. Copy of this order be sent to the financial creditors, corporate debtor, the Liquidator for taking necessary steps.

9. The **IA-641/2023** filed by the RP for Liquidation of the Corporate Debtor stands **allowed**.

Sd/-

**SHYAM BABU GAUTAM
(MEMBER TECHNICAL)**

Sd/-

**KULDIP KUMAR KAREER
(MEMBER JUDICIAL)**