

Through Videoconference

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT No. - I

IA No. 798 of 2021
in
C.P. (IB) No. 3610/MB/2019

Application under Section 33(1) & Section 34 of the Insolvency and
Bankruptcy Code, 2016

Dharit Kishorbhai Shah,
Resolution Professional for
Dhawalpratapsinh Mohitepatil Agro Industries Ltd.,
Registration No. IBBI/IPA-001/IP-P00993/2017-18/11640
302 Center Point, R.C. Dutt Road, Alkapuri,
Vadodara, Gujarat - 390 007 ... *Applicant*

In the matter of:

C.P. (IB) No. 3610/MB/2019

Punjab National Bank ... Financial Creditor
V/s
Dhawalpratapsinh Mohitepatil Agro Industries
Limited ... Corporate Debtor

Date of Order: 29 .07.2021

CORAM:

Shri. Bhaskara Pantula Mohan, Hon'ble Acting President
Shri. Narendra Kumar Bhola, Hon'ble Member (Technical)

Appearance:

For the Applicant: Mr. Amey Hadwale, Advocate.

SD/-



Per: Bhaskara Pantula Mohan, Acting President

ORDER

1. The present Application is filed by the Applicant under Section 35(1)(n) of the Insolvency and Bankruptcy Code, 2016 (the Code) read with Regulation 44(2) and 47A of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (Liquidation Process Regulations), seeking exclusion of lockdown period and extension of liquidation period of the Corporate Debtor.
2. Brief facts leading to the Application are as under.
 - i. Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated by this Bench by order dated 25.09.2019 upon admission of a Petition under Section 7 of the Code and Mr. Ram Ratan Kanoongo was appointed as the Interim Resolution Professional (IRP).
 - ii. Further, as the Corporate Debtor was not a going concern and as the recovery actions had already been initiated by the Banks against the Corporate Debtor, the Committee of Creditors (CoC) in 4th meeting held on 02.12.2019 passed a resolution for liquidation of the Corporate Debtor with 98.5% voting share.
 - iii. Subsequently, this Tribunal *vide* Order dated 26.02.2020 commenced the liquidation process of the Corporate Debtor and appointed Mr. Santanu T. Ray, the Applicant herein, as the Liquidator. It is submitted by the Applicant

Sd/-



- iv. The 2nd CoC meeting (through videoconference) was held on 21.05.2020, wherein the CoC resolved to initiate the Expression of Interests (EoI) process immediately. Accordingly, the Applicant published 'Form - G' on 16.06.2020 inviting EoI. The last date for submission of EoI was 01.07.2020.
- v. The Applicant submits that, in the meanwhile, he had preferred an Application under Section 19(2) of the Code in IA No. 1189 of 2020. This Tribunal vide order dated 04.12.2020 in the said IA 1189/2020, directed the erstwhile Directors of the Corporate Debtor to immediately handover the possession of the Company and necessary documents to the RP and adjourned the matter to 21.01.2021. On 21.01.2021, this Tribunal again directed the erstwhile Directors to handover the possession of the property (Company) within a day, failing which the Tribunal allowed the RP to take assistance of the local police for taking over the possession of the property.
- vi. The 3rd meeting of the CoC was held on 13.01.2021, wherein the Applicant appraised the CoC that no EoI was received by him as on 01.07.2020.
- vii. Thereafter, in the 4th meeting held on 05.02.2021 the CoC, taking into consideration that despite the publication of 'Form G' no EoI was received for the Corporate Debtor, decided to liquidate the Corporate Debtor and further resolved to appoint the Applicant as the liquidator and authorised him to file the present Application. Relevant

Sd/—



extract of the resolutions passed in 4th CoC meeting are as under:

"RESOLVED THAT the Corporate Debtor be liquidated as per the provisions contained in Chapter III of the Insolvency and Bankruptcy Code, 2016 and applicable Regulation thereon and that the Hon'ble NCLT be informed of the decision of the Committee of Creditors of the Corporate Debtor;

RESOLVED FURTHER THAT the Resolution Professional, Dharit Kishorbhai Shah, having IP Registration No.: IBBI/IPA-001/IP-P00993/2017-18/11640 be and is hereby appointed as the Liquidator of the Corporate Debtor;

RESOLVED FURTHER THAT the proposed Liquidator Dharit Kishorbhai Shah having IP Registration No.: IBBI/IPA-001/IP-P00993/2017-18/11640 be and is hereby authorised to file with the Hon'ble NCLT, the decision of the Committee of Creditors to liquidate the Corporate Debtor."

viii. Hence this Application.

3. It is submitted by the Applicant that due to unprecedented situation in connection with outbreak of Covid-19 Pandemic and pursuant to *suo moto* order passed by the NCLAT dated 30.03.2020 excluding the period of lockdown / extended lockdowns for the purpose of calculating the CIRP period under Section 12 of the Code, the period of CIRP in the instant case excluding the period of lockdown (from 25.03.2020

Sd/



30.10.2020) ends on 26.03.2021. The present Application is filed on 01.04.2021.

4. The Applicant has submitted his consent in 'Form AA' to act as the Liquidator of the Corporate Debtor. Copy of the consent is annexed as 'Annexure L' to the Application.
5. We have heard the learned counsel appearing for the Applicant and have perused the records. The Application is in accordance with law. The same needs to be approved as provided under Section 33 of the Code. Hence ordered.

ORDER

The Application be and the same is allowed. The Corporate Debtor, Dhawalpratapsinh Mohitepatil Agro Industries Limited, shall be liquidated in the manner as laid down in Chapter-III of the Code with the following directions:

- a) Mr Dharit Kishorbhai Shah having Registration No. IBBI/IPA-001/IP-P00993/2017-18/11640 is appointed as Liquidator. He shall be entitled to fees in terms of Section 34(8) of the Code read with Regulation 4(2) of the IBBI (Liquidation Process) Regulations, 2016.
- b) The Liquidator shall endeavour to sell 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

Sd/-



- clauses (a) to (d) of Regulation 32 of the Liquidation Process Regulations.
- c) The Liquidator shall issue public announcement stating that the Corporate Debtor is in liquidation.
- d) The Moratorium declared under section 14 of the Code shall cease to operate here from.
- e) 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.
- f) 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.
- g) 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.
- h) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- i) 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.

Sd/-



- j) The Liquidator is directed to send a copy of this Order to Registrar of Companies concerned and Insolvency and Bankruptcy Board of India, New Delhi.


Sd/-

Narendra Kumar Bhola
Member (Technical)

Sd/-

Bhaskara Pantula Mohan
Acting President

Certified True Copy
Copy issued "free of cost"
On 23/08/2024


Deputy Registrar
National Company Law Tribunal Mumbai Bench
Government of India

