

83
04/04/2022

Free of Cost Copy

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-2**

**IA/733/2021
In
CP (IB)/380/2019**

(Under Section 33 and 34 of the Insolvency and Bankruptcy Code,
2016)

In the Matter of:

Mr. Shalabh Kumar Daga,
Resolution Professional of
M/s Raghukul Cottex & Processing Pvt. Ltd.

...Applicant

AND

In the Matter of:

Bank of India

...Financial Creditor

Versus

M/s Raghukul Cottex & Processing Pvt. Ltd.

...Corporate Debtor

Order Pronounced On: 30/03/2022

Coram:

**DR. DEEPTI MUKESH,
HON'BLE MEMBER (JUDICIAL)**

**KAUSHALENDRA KUMAR SINGH,
HON'BLE MEMBER (TECHNICAL)**

IA/733/2021
In
CP (IB)/380/2019



MEMO OF PARTIES**IA/733/2021**

Mr. Shalabh Kumar Daga,
 Resolution Professional of
 M/s Raghukul Cottex & Processing Pvt. Ltd.
 Having office at:
 405, Atlantis Enclave,
 Above Dinner Bell Restaurant,
 Subhash Chowk, Gurukul,
 Memnagar, Ahmedabad,
 Gujarat- 380052.

...Applicant**In the Matter of:****Bank of India**

Having Registered Office at:
 Star House, Bandra-Kurla Complex,
 C-5, G Block, Bandra(E),
 Mumbai-400051.
 And Branch Office at:
 Bank of India, Atkot Branch,
 Atkot, Jasdan, Rajkot,
 Gujarat.

...Financial Creditor**Versus****M/s Raghukul Cottex & Processing Pvt. Ltd.**

CIN No.- U17115GJ2009PTC058873
 Revenue Survey No. 318/1,
 Nr. Dhuadhar Khodiyar Temple,
 Jasdan-Ahmedabad Highway,
 Lilapur, Jasdan, Rajkot,
 Gujarat-360050.

...Corporate Debtor**Present:**

For the Applicant: Learned Counsel Ms. Nitu Chaturvedi
 For the RP : Mr. Shalabh Kumar Daga



ORDER**Dr. Deepti Mukesh, Member (Judicial)**

1. The instant Application is filed by Mr. Shalabh Kumar Daga, Resolution Professional of corporate debtor M/s Raghukul Cottex & Processing Pvt. Ltd., under Section 33 and 34 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "**Code**") for liquidation of the Corporate Debtor.
2. This Adjudicating Authority, vide order dated 18.12.2020, had admitted the application filed by Bank of India under Section 7 of Code for initiation of Corporate Insolvency Resolution Process ('CIRP') of the Corporate Debtor and appointed Mr. Shalabh Kumar Daga as the Interim Resolution Professional ('IRP').
3. In compliances of Section 21 of Code read with Rule 6 & 8 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as "**CIRP Regulation**"), the IRP constituted CoC.
4. Mr. Shalabh Kumar Daga IRP was appointed as Resolution Professional in 1st CoC meeting dated 20.01.2021 which was confirmed as Resolution Professional ('RP') vide order dated 17.03.2021.



5. Corporate debtor had filed the appeal on 29.12.2020 before the Hon'ble NCLAT vide Company Appeal No. 08 of 2021 challenging the initiation of CIRP. Hon'ble NCLAT vide order dated 08.07.2021 dismissed the appeal and affirmed the order of the Adjudicating Authority of the CIRP and also excluded the period spent during pendency of this appeal from the period of CIRP.
6. The CoC in its 2nd meeting held on 04.03.2021 had unanimously resolved and approved the criteria for the expression of interest ('EoI'), evaluation matrix for submission of resolution plan and also authorised the resolution professional to revise dates and as per schedule mentioned in draft expression of interest. Thereafter, form G was published on 06.03.2021 and thereafter another form G was published on 01.04.2021
7. In the 3rd CoC meeting which was held on 07.06.2021, the CoC had unanimously resolved to make an application before Adjudicating Authority for exclusion of 60 days for covid-19 pandemic lockdown and extension for 90 days in CIRP period which was filed by resolution professional in IA 408 of 2021 which was allowed.
8. The CoC in the 4th meeting held on 24.08.2021 discussed that extended Expression of Interest had been published on



07.07.2021. In absence of any Resolution Plan forthcoming the CoC decided to liquidate the corporate debtor as going concern. Thereby, the CoC in the 4th meeting held on 24.08.2021 had unanimously resolved to liquidate the Corporate Debtor as going concern and also resolved to appoint the Applicant herein Mr. Shalabh Kumar Daga bearing registration No. IBBI/IPA-001/IP-P00071/2017-18/10157 as a liquidator under Section 34 (4) of the Code. The resolution of CoC is reproduced herein:

“Resolved further that the minimum monthly fees of Rs. 1,00,000/- per month is be and hereby approved to be paid to Mr. Shalabh Kumar Daga as liquidator. The fees will be paid by CoC on presentation of bill, including the period of stay, if any. This minimum fee will be deducted from the fee payable as per Insolvency and Bankruptcy of India (liquidation process) Regulation, 2016.”

9. Taking into consideration the above facts in present case of the Corporate Debtor and as per provisions of Section 33 of Code which are reproduced for reference, we consider to order the liquidation of corporate debtor.

*“Section- 33. Initiation of liquidation. –
 (1) Where the Adjudicating Authority, -
 (a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast-track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30;
 or*



(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein, it shall -

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation;

and

(iii) require such order to be sent to the authority with which the corporate debtor is registered.

(2) where the resolution professional at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the adjudicating authority of the decision of the committee of creditor approved by not less than sixty-six percent of the voting share to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clause (i), (ii) and (iii) of clause (b) of Sub-Section (1)”

10. We hereby pass the order of liquidation of the Corporate Debtor M/s Raghukul Cottex & Processing Pvt. Ltd., with following directions:

- 1) The liquidation of the Corporate Debtor is effective from the date of this order and the Moratorium declared vide order dated 18.12.2020 u/s 14 of the Code cease to exist. The moratorium u/s 33(5) of the Code shall be commence from the date of this order.
- 2) The CoC had resolved to appoint the RP as the Liquidator. Mr. Shalabh Kumar Daga resolution professional has filed his written consent to act as liquidator in form AA which is on record. We hereby appoint Resolution Professional Mr. Shalabh Kumar Daga (Registration No. IBBI/IPA-001/IP-



P00071/2017-18/10157) as a liquidator of the Corporate Debtor i.e. M/s Raghukul Cottex & Processing Pvt. Ltd. who shall complete the liquidation process as per the provision of Code read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016.

- 3) This order of liquidation under Section 33 of the Code 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; and
- 4) All the powers of the Board of Directors and key managerial personnel of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested in the Liquidator; and
- 5) The Liquidator shall take all steps as per the provisions of the Code and shall endeavour to complete the liquidation process as prescribed under the Code.
- 6) Copy of this order be given to the parties concerned and also be sent to Registrar of the Company to update the status of the corporate debtor in the master data. Copy be sent to IBBI for record.
- 7) Application is allowed and disposed of.

-sd-

Kaushalendra Kumar Singh
Member (Technical)

-sd-

Dr. Deepti Mukesh
Member (Judicial)

IA/733/2021
In
CP (IB)/380/2019

Prepared by V. Patel
Signature [Signature]
Date 04/04/2022

Certified to be True Copy of the Original
[Signature]
4-4-22
Deputy Registrar
NCLT, Ahmedabad Bench
Ahmedabad

