



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

**I.A. 3013 OF 2021**

**IN**

**CP (IB) - 2783/MB/2019**

Under Section 33(2) and Section 34 of the  
Insolvency & Bankruptcy Code, 2016

Filed by

**Mr. Ankur Kumar**

Resolution Professional for:

Vashistha Mercantile & Trading Private  
Limited

**...Applicant**

In the matter of

**Jawaria Enterprises Private Limited**

402, Corporate Annexe, Sonawala Lane,  
Near Udhyog Bhawan, Goregaon East,  
Mumbai - 400063

**...Operational Creditor**

Versus

**Vashistha Mercantile & Trading Private  
Limited**

Shop No 6, Kanakia Park, A Wing, Opp.  
Avenue Hotel, Thakur Complex, Kandivali  
East, Mumbai - 400101

**...Corporate Debtor**

**Order delivered on: 31.03.2022**

**Coram:**

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Shri Chandra Bhan Singh, Member (Technical)

**Appearance:**

For the Applicant: Ms. Bindu Bhatia, Advocate

1. The above application I.A. No. 3013/2021 is filed by Resolution Professional, Mr. Ankur Kumar (hereinafter referred to as the “Applicant”) seeking liquidation of Vashistha Mercantile & Trading Private Limited (hereinafter referred to as the “Corporate Debtor”) under Section 33(2) and Section 34 of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”), praying for following reliefs:

- a. Be pleased to pass order for liquidation of the Corporate Debtor in terms and manners as laid down in the IBC Code 2016;*
- b. Be pleased to appoint Mr. Ankur Kumar having Registration No. IBBI/IPA-002/IP-00113/2017-2018/10283 as a Liquidator of the Corporate Debtor;*
- c. Be pleased to direct the CoC members to contribute towards the unpaid CIRP costs as detailed in paragraph 4(n) of the instant Application until the disposal of the captioned Interlocutory Application;*
- d. Such other relief as this Hon’ble Bench may deem fit and necessary.*

2. The brief facts of the application are as follows:

- A. The Applicant mentions that this Tribunal vide its order dated 03.02.2021 in Company Petition No. 2783/IBC/MB/2019 admitted the petition under Section 9 of the Code, filed by Jawaria Enterprises Private Limited (hereinafter referred to as the “Operational Creditor”) and Corporate Insolvency Resolution Process (hereinafter referred to as the “CIRP”) was initiated against the Corporate Debtor. The Applicant was

appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal.

- B. It is further stated by the Applicant that on 19.02.2021 a public announcement was made inviting claims from the Creditors of the Corporate Debtor in newspapers namely The Financial Express (English Newspaper) and Vritta Manas (Marathi Newspaper).
- C. On 18.03.2021, in the first meeting of the Committee of Creditors (hereinafter referred to as the "CoC") the Applicant was appointed as the Resolution Professional.
- D. The Counsel for the Applicant states that an advertisement, inviting Expression of Interest (EoI) in Form G was published on 24.04.2021 respectively in Pratahkal (Marathi Newspaper) and Business Line (English), 09.05.2021 being the last date for receipt of Express of Interest. Thereafter, the Applicant received no Expression of Interest received till the last date of submission.
- E. The Applicant further states that in the 5<sup>th</sup> CoC meeting dated 10.08.2021 the members decided to opt for Liquidation of the Corporate Debtor with 100% voting as well as appointing Applicant as the Liquidator of the Corporate Debtor with 100% voting share. The relevant extract of the resolution is reproduced herein below for ready reference:-

***"RESOLVED THAT***, Pursuant to the provisions of Section 33(2) of the Insolvency and Bankruptcy Code, 2016 and Rules made thereunder, approval of the Committee of Creditors be and is hereby accorded for liquidation of Vashistha Mercantile and Trading Private Limited, subject to the approval of Hon'ble National Company Law Tribunal, Mumbai."

***"RESOLVED THAT*** pursuant to Section 34 of the Insolvency and Bankruptcy Code, 2016 the Committee of

*Creditors hereby appoints **Mr. Ankur Kumar** having **Registration No. IBBI/IPA-002/IP-00113/2017-2018/10283** to act as Liquidator of Corporate Debtor for a professional fee as mutually decided between the Committee and the RP.;*

**RESOLVED FURTHER THAT** *after the appointment of liquidator all the powers of board of directors, Key managerial personnel of the corporate debtor shall cease to have effect and shall be vested with the liquidator.”*

**RESOLVED FURTHER THAT** *Pursuant to Regulation 39B the estimated liquidation cost to be incurred in the process of liquidation shall be decided between the RP and the Committee of Creditors.”*

3. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, it is observed from the minutes of the 5<sup>th</sup> CoC meeting that the CoC has with 100% majority decided to liquidate the Corporate Debtor. The CoC has appointed the Applicant as Liquidator to carry on the process of Liquidation of the Corporate Debtor. The Applicant has agreed to act as Liquidator to carry on the process of Liquidation and given his consent to act as Liquidator. This bench, therefore allows the above Interlocutory Application Number 3013 of 2021 and passed the following:

#### **ORDER**

1. The above I.A. No. 3013/2021 is allowed and the Corporate Debtor Vashistha Mercantile & Trading Private Limited is ordered to be liquidated.

- a. **Mr. Ankur Kumar**, having Registration No. IBBI/IPA-002/IP-N00113/2017-18/10283 and having office at: Office No. 18, 10<sup>th</sup> Floor, Pinnacle Corporate Park, G-Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400051 is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
- b. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in the Regulation 39B. The estimated liquidation cost to be incurred in the process of liquidation shall be decided between the RP and the Committee of Creditors.
- c. 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.
- d. The Liquidator appointed under section 34(1) of the Code. 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.
- e. 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.
- f. 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.

- g. 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.
- h. 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.

With the above directions, this application i.e. I.A. No. 3013 of 2021 is hereby allowed and disposed of.

**Sd/-**  
**Chandra Bhan Singh**  
**MEMBER (TECHNICAL)**

**Sd/-**  
**H.V. Subba Rao**  
**MEMBER (JUDICIAL)**