

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

113. C.P. (IB)/446(MB)2019
IA(I.B.C)/1994(MB)2020
IA(I.B.C)/2075(MB)2021
IA(I.B.C)/1660(MB)2021
MA(IBC)/2720(MB)2019
MA(IBC)/2751(MB)2019
IA(I.B.C)/906(MB)2020
IA(I.B.C)/944(MB)2020
IA(I.B.C)/2331(MB)2021

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 **09.11.2021**

NAME OF THE PARTIES: JAI BHAVANI CONSTRUCTION
Vs.

ARIHA CHEMICALS PVT LTD

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Ms. Pragya Khaitan, counsel for the Earstwhile Resolution Professional. Mr. Durgaprasad Halwai i/b Jayesh Desai and Assoc for Resolution Professional in IA 1660 of 2021. Mr. Rohit Vora, Resolution Professional and Mr. Partho Sarkar, counsel for the applicant in I.A. 2331/2021 are present through virtual hearing.

MA(IBC)/2751(MB)2019

The above Application is filed by erstwhile Interim Resolution Professional seeking Cooperation from the CoC stands disposed of as infructuous in view of filing separate application bearing no. 1660/2021 for liquidation of CP.

IA(I.B.C)/1994(MB)2020

The above application is filed by Resolution Professional for exclusion of 90 days stands disposed of as infructuous in view of filing separate liquidation application by Resolution Professional for liquidation of Corporate Debtor.

IA(I.B.C)/2075(MB)2021

The above application filed by Mr. Rohit Vohra seeking urgent orders and directions against the Respondent to provide the Applicant with the proceedings, records and papers in respect of the Resolution Process of the Corporate Debtor including but not limited to the Information Memorandum, Assets Memorandum, Preliminary Report, Valuation Report, Minutes of the CoC meeting with the voting details thereof and the various Expressions of Interest published by the Resolution Professional.

The above application stands disposed of as infructuous in view of filing separate application bearing no. 1660/2021 for liquidation of the Corporate Debtor as there was no resolution.

IA(I.B.C)/906(MB)2020

The above application is filed by SD Modchem Pharama Pvt. Ltd. seeking following reliefs:

- a. This Hon'ble Tribunal be pleased to give direction to IP and Ariha Chemicals Private Limited, (Corporate Debtor) to hand over the peaceful vacate possession the said property being the property situated at Plot No: H-1 MIDC Taloja District Raighad, Maharashtra of the Applicant.*
- b. This Hon'ble Tribunal be pleased to give direction to IP to call the appropriate authority of concern Electricity Board, Water Board and Gram-Panchayat and Municipal office to get the claim for Electric Bill, Water Bill, Gram-Panchayat and Municipal Tax respectively, and add the same under the claim statement of the Ariha Chemicals Private Limited, (Corporate Debtor).*
- c. Any other direction as this Hon'ble Tribunal may deem fit in facts and circumstances of the present case.*
- d. Cost of the present application.*

Resolution Professional is directed to file reply in the above Application before the next date of hearing by serving an advance copy on the other side. List this matter on 06.12.2021.

IA(I.B.C)/944(MB)2020 & MA(IBC)/2720(MB)2019

Both the above applications are relating to reimbursement of fees of erstwhile IRP. List this matter on 06.12.2021.

I.A. 2331/2021

Mr. Partho Sarkar, counsel the applicant is present through virtual hearing.
List this matter on 06.12.2021.

IA(I.B.C)/1660(MB)2021

Heard the counsel appearing for the RP and in result the above I.A.
1660/2021 filed for ordering liquidation against Corporate Debtor is allowed.
Detailed order would follow:

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. 1660 OF 2021

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

Filed by

Mr. Rohit Vora

Resolution Professional of:

Ariha Chemicals Private Ltd.

...Applicant

In the matter of

C.P. No. 446 of 2019

Jai Bhavani Construction

Shop No. 178, Shanti Nagar,

Near Laxmi Vilas Hotel, Talavani Naka,

Ghansoli, Navi Mumbai – 400701

District Thane (MH)

...Petitioner

Versus

Ariha Chemicals Private Ltd.

A – 404, Plot No. 44 & 45,

Sector 8A Koper Khairane,

Navi Mumbai – 400709

District Thane (MH)

...Corporate Debtor

Order delivered on: 09.11.2021

Coram:

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

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

Appearance:

For the Resolution Professional: Mr. Rohit Vora

1. The above application I.A. No. 1660/2021 is filed by Resolution Professional, Mr. Rohit Vora seeking liquidation of Ariha Chemicals Private Ltd. (hereinafter referred as Corporate Debtor) under Section 33(1) (a) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”) and Rule 11 of The National Company Law Tribunal Rules, 2016 (hereinafter called as “the Rules”), praying for following reliefs:

- a. That this Hon’ble Tribunal may be pleased to allow the present Application under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016;*
- b. That this Hon’ble Tribunal may be pleased to pass appropriate orders permitting the initiation of liquidation of process of Corporate Debtor;*
- c. That this Hon’ble Tribunal may be pleased to appoint the Applicant as Liquidator under Section 34(1) of the Insolvency and Bankruptcy Code, 2016 and approve liquidation fees as fixed by Committee of Creditors in 16th CoC meeting dated 15th March 2021;*
- d. That this Hon’ble Tribunal may be pleased to pass any other orders and/or directions as deemed fit and necessary by this Hon’ble Tribunal in the interest of justice and equity; &*
- e. For costs of this application.*

2. Heard the Counsel appearing for the Applicant / Resolution Professional. The counsel for the Applicant submits that this Tribunal vide its order dated 08.05.2019 in Company Petition No. 446 of 2019 admitted the petition under Section 9 of the Code, filed by Jai Bhavani Construction (hereinafter referred to as the “Operational Creditor”) and Corporate Insolvency Resolution Process (CIRP) was initiated against Ariha Chemicals Private Ltd., (hereinafter called as the “Corporate Debtor”). The applicant herein was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor by this Tribunal vide this Order dated 25.09.2019. The Committee of Creditors was constituted on 06.06.2019.
3. The CoC in its 16th meeting which was held on 15.03.2021 decided to liquidate the Corporate Debtor since no Expression of Interest is received from any prospective resolution applicant. Therefore, the Committee of Creditors approved initiation of liquidation of the corporate debtor by passing the resolution with voting share of 93.57% and directed the Resolution Professional to file miscellaneous application and seek further directions and order under section 33(1)(a) of the code and Rule 11 of the rules from this Tribunal.
4. After hearing the submissions made by the Counsel appearing for the Resolution Professional and upon perusing the material available on record, it is observed from the minutes of the 16th CoC meeting that the CoC has, with 93.57% majority, decided to liquidate the Corporate Debtor. Since no resolution had happened even after lapse of statutory period of 330 days.

5. The CoC also proposed the name of Mr. Rohit Vora to be appointed as liquidator.
6. Since the CoC has passed the resolution for liquidation of the Corporate Debtor and appointment of liquidator after applying its commercial wisdom, this bench has no option except to allow the above IA and shall pass an order of liquidation of Corporate Debtor. Accordingly we pass the following:

ORDER

1. The above I.A. No. 1660/2021 is allowed and the Corporate Debtor M/s Ariha Chemicals Private Ltd. is ordered to be liquidated.
 - a. **Mr. Rohit Vora**, having Registration No. IBBI/IPA-003/IP-N00071/2017-2018/10556 and having office at: A – 1103, Raj Sunflower Royal Complex, Eksar Road, Borivali (W) Mumbai - 400092, 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 Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
 - 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. 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.
- 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. 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.
- g. 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.
- h. 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.

- i. 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. 1660 of 2021 is hereby allowed and disposed of.

Sd/-

CHANDRA BHAN SINGH
MEMBER (TECHNICAL)

Sd/-

H.V. SUBBA RAO
MEMBER (JUDICIAL)