

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

IA. No. 2767/2021

In  
CP(IB)No.3540/MB/CII/2018

*Application filed under section 33(1)(a) of  
Insolvency and Bankruptcy Code, 2016*

Pankaj Sham Joshi, RP of  
GRL Tires Private Limited

...Applicant

*In the matter of*

Park Chambers Limited

...Financial Creditor

V/s

GRL Tires Private Limited

...Corporate Debtor

Order Pronounced on :- 07.06.2024

*Coram:*

Anil Raj Chellan

: Kuldip Kumar Kareer

Member Technical

: Member Judicial

*Appearances :-*

For the Applicant

: Pankaj Joshi



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**ORDER**

*Per: Coram*

1. It is an application filed u/s 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 (Code) by Pankaj Sham Joshi, Resolution Professional (RP) of GRL Tires Private Limited seeking liquidation order based on the resolution passed by the CoC in its 7<sup>th</sup> meeting held 23.09.2021.
2. On perusal of this application, it appears that CP No. (IB)-(MB) 3540/2018 was admitted by this Tribunal on 20.11.2019 and Mr. Pankaj Sham Joshi was appointed as Interim Resolution Professional (IRP). Further, the IRP in compliance with Regulation 13(2)(d) and 17(1) of the CIRP Regulations, filed a report certifying the constitution of the CoC and a list of creditors. The said committee consisted of only one Financial Creditor.
3. The IRP made public announcement of CIRP of the Corporate Debtor on 22.12.2019 for inviting claims from the Creditors. The last date for submission of claims was 03.01.2020.
4. In 2<sup>nd</sup> meeting of CoC held on 07.02.2020, resolution was passed to appoint IRP as the Resolution Professional (RP).
5. Further, the Resolution Professional, pursuant to section 18 of the Code, requested the suspended directors of the Corporate Debtor via email



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dated 28.12.2019 to hand over all assets and documents of the Corporate Debtor within 5 days from receipt of the communication. Subsequently, the Resolution Professional audited the financial statements of the Corporate Debtor for the financial year 2019-2020.

6. It was thereafter that the Applicant learned the Corporate Debtor does not have any tangible assets such as land, buildings, plant, machinery, etc., and does not have any work-in-progress. The Applicant submits that the registered office of the Corporate Debtor was merely a table space within the office premises of a group company, Govind Rubber Limited. No lease agreement was entered by the Corporate Debtor for these premises. Subsequently, Govind Rubber Limited vacated the premises after entering into CIRP and undergoing resolution. As a result, the Corporate Debtor was compelled to relocate its registered office to new premises.
7. The Resolution Professional in compliance with Regulations 27 and 35 of the CIRP regulations appointed Mr. Harshad Deshpande and Mr. Shrenik Doshi as valuers for determination of the Fair Value and the Liquidation Value of the Security and Financial Assets of the Corporate Debtor.
8. The IRP published Form G in two newspapers inviting Expression of Interest (EoI) on 3.03.2020 and the last date for submission of EoI was till 18.03.2020. However, no EoI was received to the publication of Form G.



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9. In the 3rd CoC meeting held on 19.03.2020, it was decided that since no EOI was received from any prospective Resolution Applicant, the CoC decided not to re-issue fresh invitation for EOI.
10. Based on the financial statements and documents provided by the Suspend Directors of the Corporate Debtor, the Applicant formed the opinion and determined that the Corporate Debtor had been subjected to a preferential transaction by the suspended directors in favor of Mrs. Sunita Poddar, a related party, amounting to Rs. 47,26,000/- (Rupees Forty-Seven Lakhs Twenty-Six Thousand only). Through a demand notice dated 13<sup>th</sup> May 2020, the Applicant called upon Mrs. Sunita Poddar and the suspended directors to repay the amount of Rs. 47,26,000/- by transferring it into the designated account of the Corporate Debtor.
11. The addresses failed to respond to the Demand Notice issued by the Applicant. As a result, the Applicant filed Interlocutory Application No. 1396 of 2020 before this Hon'ble Tribunal under section 43 read with section 44 of the Insolvency and Bankruptcy Code whereby the Applicant sought to avoid the preferential transaction and requested a directive against Mrs. Sunita Poddar and the suspended Directors to jointly and/or severally pay Rs. 47,26,000/- to the Corporate Debtor. The Tribunal however, declined the said application vide order dated 23.09.2021.



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12. During the nationwide lockdown imposed by the Government of India starting on 24.03.2020 and the State of Maharashtra starting on 23.03.2020, the lockdowns were extended periodically due to the relentless spread of Covid-19. Based on a resolution passed by the CoC during the 6<sup>th</sup> CoC meeting, the Applicant filed two IA no. 873 of 2021 to exclude the lockdown period from 23.03.2020 to 31.03.2021 while computing the CIRP period of the Corporate Debtor, and IA no. 860 of 2021 to extend the CIRP period by 90 days. This Hon'ble Tribunal, by its order dated 13.07.2021, excluded the lockdown period from 23.03.2020 to 31.03.2021 and extended the CIRP of the Corporate Debtor by 90 days, making 23.09.2021 the 270<sup>th</sup> day of the CIRP for the Corporate Debtor.
13. Considering that the Corporate Debtor is not a going concern and has ceased its operations since the Financial Year 2016-17 having no inventory and tangible assets and further has no employees, workers, or staff, the CoC determined that there is no possibility of reviving the Corporate Debtor. Accordingly, during the 7<sup>th</sup> CoC meeting held on 23.09.2021, the CoC resolved with a 100% vote to initiate the liquidation process for the Corporate Debtor. They instructed the Applicant to file an application to commence the liquidation process against the Corporate Debtor.
14. The Applicant expressed recusal to accept the position of Liquidator for the Corporate Debtor and urged the CoC to propose an Insolvency Professional. Nonetheless, during the 7<sup>th</sup> Coc meeting on 23.09.2021, the



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CoC resolved that the Hon'ble Tribunal may appoint an Insolvency Professional.

15. The relevant extracts of the resolution passed in 7<sup>th</sup> CoC meeting held on 23.09.2021 are as follows:

*"RESOLVED THAT liquidation process be initiated against the Corporate Debtor and the Resolution Professional shall proceed to file the application for initiation of liquidation under Section 33 of the Insolvency and Bankruptcy Code, 2016 before the Hon'ble NCLT, Mumbai."*

16. Looking at the application and averments made therein, we are of the considered opinion that this is a fit case for liquidation. Therefore, we hereby order the liquidation of the company within the following terms:

- a. The **Mr. Shrikant Madanlal Zawar**, holding Registration No. **IBBI/IPA-001/IP-P00156/2017-2018/10325**, 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, Mumbai and to the Insolvency and Bankruptcy Board of India;
- c. The Order of Moratorium passed under Section 14 of the



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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 if any 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



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2016;

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

17. The IA-2767/2021 filed by the RP for Liquidation of the Corporate Debtor stands **allowed accordingly in aforesaid terms.**

Sd/-


ANIL RAJ CHELLAN  
(MEMBER TECHNICAL)

Sd/-

KULDIP KUMAR KAREER  
(MEMBER JUDICIAL)



Certified True Copy  
Copy Issued "free of cost"  
On 26/06/2024

  
Deputy Registrar  
National Company Law Tribunal Mumbai Bench  
(D.6605) 25/06/2024