

**IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**IA No.1005(PB)/2023, ,
IA No.1375(PB)/2022, IA No.6225(PB)/2022,
IA No. 4843(PB)2022 , IA No.3868(PB)/2022,
IA No.5730(PB)/2022, IA No.4545(PB)/2022
IN
CP (IB) No.52(PB)/2021**

In the matter of:

An application under section 33(2) of the Insolvency and Bankruptcy Code, 2016.

In the matter of:

Mahindra and Mahindra Financial Services

... Financial Creditor

Versus

Stan Autos Private Limited

...Corporate Debtor

And

In the matter of:

Vijay Kishore Saxena
(RP of Stan Autos Pvt. Ltd)

...Applicant

Order pronounced on: 11.04.2023

Coram:

Chief Justice (Retd.) Ramalingam Sudhakar : Hon'ble President

Shri Avinash K. Srivastava : Hon'ble Member (Technical)

Appearances :

For the Applicant/RP

: Mr. Jitendra Kumar, Advocate
Mr. Shreyansh Dassani, Advocate

For the applicant

: Mr. Jatin Sigal , CS in IA 4545/2022

For the respondent

: Mr. Anubhav Mehrotra in IA 3868/2022

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In Re: Liquidation of Stan Autos Private Limited.

ORDER

Per: Avinash Kumar Srivastava, Member (Technical)

IA No.1005(PB)/2023

1. This is an application filed by the Resolution Professional ('RP') upon the instructions of the Committee of Creditors ('CoC') seeking liquidation of the Corporate Debtor, *viz.*, **Stan Autos Private Limited** [CIN: U74899DL1991PTC044879], on the ground that no resolution plan was received. The Applicant has sought for the following reliefs:
 - a. Pass an order/ direction in terms of Section 33 of IBC,2016 read with Regulation 3 of IBBI (Liquidation Process) Regulations, 2016 for liquidation of the Corporate Debtor;*
 - b. Direct the Committee of creditors to pay the approved liquidation cost to the liquidator as approved by this Hon'ble Tribunal;*
 - c. Pass any other order which this Hon'ble Tribunal may deem fit and proper in the interest of justice.*
2. This Adjudicating Authority, *vide* its order dated 18.02.2022 on a Petition filed by the Financial Creditor namely, Mahindra and Mahindra Financial Services ('Financial Creditor') under section 7 of the Insolvency and Bankruptcy Code, 2016 (*the Code*), directed initiation of the Corporate Insolvency Resolution Process ('CIRP') against the Corporate Debtor and appointed the applicant Mr. Rajesh Kumar Mittal as the Interim Resolution Professional ('IRP') who was later replaced by Mr. Vijay Kumar Saxena as RP *vide* order of this Adjudicating Authority dated 06.06.2022.

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3. The Applicant submits that Form G was published and after collation of claims, the CoC was constituted on 27.10.2022 with the following members:

Financial Creditors	Voting Share
State Bank of India	50.69%
Indusind Bank Limited	6.26%
Kotak Mahindra Bank Limited	14.50%
Kotak Mahindra Prime Limited	12.36%
Mahindra and Mahindra Financial Services Limited	9.03%
PPG Asian Paints Private Limited	6.85 %
Smart Trades Private Limited	0.31%
Total	100%

4. It is stated that three EOI's were also received but none of the EOI were found feasible by COC. Thus, in absence of any possibility of getting resolution plan, the members of CoC in the 12nd COC meeting held on 18.01.2023, with 83.81% voting share recommended for liquidation of the Corporate Debtor and to appoint the present RP; Mr. Vijay Kishore Saxena as liquidator of the Corporate Debtor.
5. Hence, the RP has filed the present application under section 33(2) of the Code, before this Adjudicating Authority for liquidation of the Corporate Debtor and appointment of Mr. Vijay Kishore Saxena as liquidator who

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has given his consent for the appointment. He is stated to have a valid Authorisation for Assignment. The result of the voting is as follows:

Result of Voting is as follows:

NAME OF THE CREDITOR	VOTING SHARE ALLOTTED	Assent	Dissent	Abstained
State Bank of India	50.69%	50.69%	--	--
M/s IndusInd Bank Limited	6.26%	6.26%	--	--
Kotak Mahindra Bank Limited	14.50%	14.50%	--	--
Kotak Mahindra Prime Limited	12.36%	12.36%	--	--
Mahindra and Mahindra Financial Services Limited	9.03%	9.03%	9.03%	--
PPG Asian Paints Private Limited	6.85%	--	--	6.85%
Smart Trade Private Limited	0.31%	--	--	0.31%
TOTAL	100.00%	83.81%	9.03%	7.16%

The Resolution of Liquidation of Corporate Debtor was approved in favor with 83.81% from the total CoC members.

*In case of Mahindra and Mahindra Financial Services Limited, the column showing assent of 9.03% appears to be erroneous.

6. It is stated that the COC has not approved the proposed expenses estimated for the liquidation process and has not made compliance of Regulation 39B of the CIRP Regulations, 2016 regarding meeting of liquidation costs. The Liquidator is, therefore, directed to take necessary action under Regulation 2A of the IBBI (Liquidation process), 2016 regarding contribution to liquidation costs.
7. This Bench, therefore, hereby orders as follows: -
 - a. Prayers as sought for in I.A.No. 1005 (PB)/2023 filed by Mr. Vijay Kishore Saxena, RP of Stan Autos Private Limited, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-clauses (i),(ii) and (iii) of sub section (1);

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- b. Mr. Vijay Kishore Saxena [Reg. No. IBBI/IPA-001/IP-P01766/2019-2020/12708; Email: vksaxena2159@gmail.com; Address: 3rd Floor ,100 Kailash Hills, East of Kailash ,New Delhi, National Capital Territory of Delhi ,110065, whose name has been proposed by CoC, is hereby appointed as liquidator as provided under section 34(1) of the Code.
- c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier stating that the Corporate Debtor is in liquidation.
- e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
- f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- g. On initiation of the liquidation process but 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, as provided in section 33(5) of the Code read with its proviso.
- h. In accordance with section 33(7) of the Code, 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

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business of the Corporate Debtor continued during the liquidation process by the Liquidator.

- i. 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.
 - j. 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 as per law.
 - k. The Liquidator shall submit 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, 2016;
8. The Liquidator and the Registry are directed to send the copy of this order within 7 days from the date of this order to the the Registrar of Companies, NCT of Delhi & Haryana.The Registrar of Companies shall take further necessary action upon receipt of a copy of this order.
9. The application bearing **IA No. 1005/2023** shall stand disposed of in accordance with the above directions.

IA No. 1375(PB)/2022, IA No. 6225(PB)/2022 & IA No. 4843(PB)/2022

IA No. 1375(PB)/2022

The present application is filed under Sec 19(2) IBC by the RP praying for following reliefs:

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- a) *That the Hon'ble NCLT may be pleased to direct respondent nos. 1, 2,3 and 4 their employees, their agents, representatives and office bearers to handover physical possession of the records, Assets and properties of the Corporate Debtor.*
- b) *That the Hon'ble NCLT may be pleased to issue suitable direction for the past and present Directors, employees, statutory auditors, company secretary and bankers of the Corporate Debtor to co-operate with the Applicant by handling over all relevant documents/information required by the applicant, in the time bound manner.*
- c) *That the Hon'ble NCLT may be pleased to declare all agreements entered by Respondent no. 1 with Go Green EV Private Limited void ab initio and direct the Respondent No. 5 to hand over possession of the premises at G.T. Road, Near SPS Apolo Hospital, Sherpur Chowk, Ludhiana-141001, Punjab and G. T. Road, Sahnewal, Ludhiana-141003 along with all movable and immovable assets belonging to the Corporate Debtor to the applicant.*
- d) *That the Hon'ble NCLT may be pleased to exclude such period of non-cooperation from counting the total period from 21.02.2022 to till the final order on the present application of the resolution process as prescribe under the IBC, 2016.*
- e) *To direct the Commissioner of Police, Ludhiana and Jalandhar to furnish adequate security and assistance to the applicant in taking physical possession of the assets of the Corporate Debtor using such force as may be necessary if warranted and break open the lock if the movable and immovable properties found locked and handover the same to the Applicant so as to enable the applicant to get physical custody possession of the assets of the corporate debtor.*
- f) *For such further order, including levying of penalty on the suspended directors and statutory Auditors of the Corporate Debtor, as the Hon'ble NCLT may deem fit.*

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IA No. 6225(PB)/2022

The present application is filed under Sec 60(5) IBC by the RP praying for following reliefs:

- i.) Direct to the Suspended Director/ Respondents of the Corporate Debtor to provide books of account and company data as asked by the Resolution Professional and further direction to the suspended directors/respondents to provide all assistance to the Resolution Professional;*
- ii) Pass any other order which this Hon'ble Tribunal may deem fit in the eyes of equity, justice and good conscience.*

IA No. 4843(PB)/2022

The present application is filed under Sec 60(5) IBC by the RP praying for following reliefs:

- i. Direct the Respondents to provide all data, information, record, access to the system along with password to the R.P. at the earliest and initiate appropriate proceedings against Respondents in terms of Section 70 of IBC, 2016; the*
 - ii. Pass any other order which this Hon'ble Tribunal may deem fit in the eyes of equity, justice and good conscience.*
10. All the three applications are filed by the RP with the identical prayers seeking cooperation from the suspended board of directors of the corporate debtor in conducting the CIR Process.
11. The liquidation order has been passed *supra* in **IA No. 1005(PB)/2023**. We observe that the liquidator is well within its powers under Section 34(3) of IBC, 2016 to seek the information from the ex-directors and respondents are under lawful obligation to furnish the same to the

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liquidator. Therefore, the ex- directors are hereby directed to make available all the information, records and books as sought by the liquidator within a week.

12. With the above directions, the **IA No. 1375/2022, IA No. 6225/2022 and IA No. 4843/2022** shall stands disposed of.

IA No. 4545(PB)/2022

13. The present application is filed under Sec 60(5) IBC, 2016 by the applicant namely S. Parminder Singh Gill with the prayer to direct the RP to verify and admit claim as submitted in Form B for Rs. 45,96,412/- dated 07.03.2022.

14. In the present matter, the liquidation order has already been passed *supra* in **IA No. 1005(PB)/2023**, therefore, it is open to the Applicant S. Parminder Singh Gill, one of the Operational Creditor of Stan Autos Private limited to file claim before the Liquidator in accordance with the provisions of the Code and the Liquidator will decide the claim under Section 40 of the Code.

15. With the above direction, **IA No. 4545(PB)/2022** shall stands disposed of.

IA No. 3868(PB)/2022

16. *The present application is filed under Sec 60(5) of IBC by the RP praying for following reliefs:*

(a) to pass an order / direction to the Ld. Receiver Mr. Shahil Anand in respect of handing over possession of the properties whereupon

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building, plant and machineries, instruments, appurtenances and documents of business of the corporate debtor are lying, the properties are against which the possession is being sought are :

- (i) Property bearing Municipal Corporation No. B-29,30/3- A, situated at Sherpur Khurd, Sherpur Chowk, Ludhiana*
 - (ii) Property bearing Municipal Corporation No. 29, 30/37, suitated at Sherpur Khurd, Sherpur Chowk, Ludhiana*
- (b) pass any other which this Hon'ble Tribunal may deem fit in the eyes of equity, justice and good conscience.*

17. The liquidation order has already been passed in the present matter, thus present matter need to be pursued further by the liquidator and memo of parties to be amended accordingly.

18. The matter to be listed for hearing on 03.05.2023

19. **IA 5730 (PB)/2022**

The present application is filed under Sec 60(5) of IBC, 2016 by the RP with the prayer to direct SBI, lead member of CoC to release FDRs to the tune of Rs. 62,09,277 after removing lien and credit it to the current account of the Corporate debtor after removing hold/ lien on current account of CD.

20. The liquidation order has already been passed in the present matter, thus present matter need to be pursued further by the liquidator and memo of parties to be amended accordingly.

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21. The matter to be listed for hearing on 03.05.2023
22. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
23. A copy of this order shall also be forwarded to the IBBI, and concerned parties for their record.
24. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

-sd-

**RAMALINGAM SUDHAKAR
PRESIDENT**

-sd-

**AVINASH K. SRIVASTAVA
MEMBER (TECHNICAL)**