

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

18. I.A. 644/2022
I.A. 179/2022
I.A. 2892/2021
C.P.(IB)-1808(MB)/2019

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 **28.03.2022**

NAME OF THE PARTIES: Jalgaon Janta Sahakari Bank Ltd
V/s
Desimran Cartons Pvt Ltd

SECTION 7 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

I.A. 179/2022

Mr. Prakhar Tandon, counsel appearing for the Resolution Professional is present through virtual hearing.

The above Application is filed for liquidation of the Corporate Debtor Company. Heard the counsel appearing for the RP and the above Application is allowed. Detail order would follow:

List other pending application on 27.04.2022.

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. 179 OF 2022

IN

CP (IB) - 1808/MB/2019

Under Section 33 of the Insolvency &
Bankruptcy Code, 2016

Filed by

Mr. Vivek Murlidhar Dabhade

Resolution Professional for:

Desimran Cartons Private Limited

...Applicant

In the matter of

Jalgaon Janta Sahakari Bank Limited

Sewa, 117/119, Navi Peth, Jalgaon,

Maharashtra - 425001

...Financial Creditor

Versus

Desimran Cartons Private Limited

Registered Office at: Kulkarni House,

2nd Floor, Ghantali Road, Naupada,

Thane, Maharashtra - 400602

...Corporate Debtor

Order delivered on: 28.03.2022

Coram:

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

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

Appearance:

For the Applicant: Mr. Prakhar Tandon, Advocate

1. The above application I.A. No. 179/2022 is filed by Resolution Professional, Mr. Vivek Murlidhar Dabhade (hereinafter referred to

as the “Applicant”) seeking liquidation of Desimran Cartons Private Limited (hereinafter referred to as the “Corporate Debtor”) under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”), praying for following reliefs:

- a. That this Hon’ble Tribunal be pleased to pass an order directing the Liquidation of the Corporate Debtor;*
- b. That this Hon’ble Tribunal be pleased to pass an order Mr. Vivek Dabhade, Applicant/Resolution Professional as the Liquidator of the Corporate Debtor;*
- c. That this Hon’ble Tribunal be pleased to pass such orders as may deem just and proper by the Hon’ble Bench.*

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

- A. The Applicant mentions that this Tribunal vide its order dated 23.07.2021 in Company Petition No. 1808/IBC/MB/2019 admitted the petition under Section 7 of the Code, filed by Jalgaon Janta Sahakari Bank Limited (hereinafter referred to as the “Financial Creditor”) and Corporate Insolvency Resolution Process (hereinafter referred to as the “CIRP”) was initiated against Desimran Cartons Private Limited. Mr. Vivek Murlidhar Dabhade was appointed as the Interim Resolution Professional (hereinafter referred to as the “IRP”) of the Corporate Debtor by this Tribunal vide Order dated 23.07.2021.
- B. It is further stated by the Applicant that on 30.07.2021 a public announcement was made inviting claims from the Creditors of the Corporate Debtor in newspapers namely The Indian Express (English Newspaper, Ahmedabad Edition), The Financial Express (English Newspaper, Mumbai Edition),

Punyanagari (Marathi Newspaper, Marathi Newspaper) and Gujarat Guardian (Gujarati Newspaper).

- C. On 21.08.2021, 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 06.10.2021 respectively in Free Press Journal (English Newspaper), Navrashtra (Marathi Newspaper) and Sushila Times (English Newspaper), 21.10.2021 being the last date for receipt of Expression of Interest and 05.12.2021 being the last date for submission of Resolution Plan. Thereafter, the Applicant received only 1 Expression of Interest was received by the “Sarla Performances Fibers Limited” till the last date of submission of the Resolution Plan.
- E. On 22.12.2021, the Applicant informed the CoC Members that the last date for submission of Resolution Plan has expired on 05.12.2021 but no Resolution Plan from Sarla Performances Fibers Limited has been received.
- F. The Applicant further states that in the 6th CoC meeting dated 03.01.2022 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 of the IBC, 2016 the Committee of Creditor hereby confirm to Liquidate – DeSimran Cartons Private Limited in this meeting held on 3rd January, 2022.

RESOLVED FURTHER THAT Mr. Vivek Dabhade, Resolution Professional having registration number IBBI/IPA-

001/IP-P00306/2017-18/10570, continue to act as an liquidator, and be and is hereby authorised to file the application for initiation of Liquidation to do all such acts, deed as may be deemed fit to give effect to the said resolution further the fees of Liquidation is as approved as per Reg. 39D.”

“RESOLVED THAT pursuant to Regulations 39B of CIRP Regulations, 2016, the estimate of the amount required to meet Liquidation costs in the event an order for Liquidation is passed under Section 33 is Rs. 14,00,000/- (Rupees Fourteen Lacs Fifty Thousand Only).

RESOLVED FURTHER THAT the aforesaid fees and expenses shall form part of the Liquidation process cost.

RESOLVED FURTHER THAT the Liquidation cost will be contributed by the financial creditors as per the Voting Share in a separate Bank account, opened by the Liquidator during the Liquidation.”

“RESOLVED THAT pursuant to Regulations 39D of CIRP Regulations, 2016, the committee in consultation with the Resolution Professional, hereby fix the fees of Mr. Vivek Murlidhar Dabhade, Insolvency Professional, having reg. no. IBBI/IPA-001/PI-P00306/2017-18/10570, to continue to act as the Liquidator, if an order for Liquidation is passed under section 33 as per below:

- Rs. 75,000/- plus GST (per month for first 6 months).
- Rs. 50,000/- plus GST (per month for 6th to 12th month).
- Rs. 30,000/- plus GST (per month from the 13th month till the receipt liquidation order by Hon’ble NCLT).

RESOLVED FURTHER THAT that aforesaid fees and expenses shall form part of the Liquidation Process Cost.”

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 7th 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 179 of 2022 and passed the following:

ORDER

1. The above I.A. No. 179/2022 is allowed and the Corporate Debtor Desimran Cartons Private Limited is ordered to be liquidated.
 - a. **Mr. Vivek Murlidhar Dabhade**, having Registration No. IBBI/IPA-001/IP-P00306/2017-18/10570 and having office at: B-203, Devgiri, Ganeshmala, Singhad Road, Pune, Maharashtra 411030 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 in the following manner:
 - Rs. 75,000 plus GST (per month for first 6 months),
 - Rs. 50,000 plus GST (per month 6th to 12th month) and
 - Rs. 30,000/- plus GST (per month from the 13th month till the receipt liquidation order by Hon'ble NCLT).
 - 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. 179
of 2022 is hereby allowed and disposed of.

Sd/-

Chandra Bhan Singh
MEMBER (TECHNICAL)

Sd/-

H.V. Subba Rao
MEMBER (JUDICIAL)