IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

I.A. 1090 OF 2021

Under Section 33 (1) of Insolvency & Bankruptcy Code, 2016

Filed by
Mr. Milind B. Kasodekar
Resolution Professional of:
M/s. Damoh – Jabalpur Toll Roads Private Limited

...Applicant

In the matter of
C.P. No. 4793 of 2018

M/s. Mark-O-lines Traffic Controls Private Limited
502-A, Wing Shree Nand Dham,
Sector 11, CBD Belapur,
Navi Mumbai, Mumbai - 400614

...Petitioner

Versus

M/s Damoh – Jabalpur Toll Roads Limited
513/A, 5th Floor, Kohinoor City,
Kirol Road, Kurla (West),
Mumbai – 400070

Also at:
A 26/3, Mohan Co-operative Industrial Estate, Mathura Road, New Delhi – 110044

Also at:

135, Continental Building,

Dr. Annie Besant Road,

Worli, Mumbai - 400018

...Corporate Debtor

Order delivered on: 01.12.2021

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)
Hon'ble Shri Chandra Bhan Singh, Member (Technical)

Appearance:

For the Resolution Professional: Mr. Avinash R. Khanolkar

1. The above application I.A. No. 1090/2021 is filed by Resolution Professional, Mr. Milind B. Kasodekar seeking liquidation of Union Chains & Jewellers Private Limited (hereinafter referred as Corporate Debtor) under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as "the Code"), praying for following reliefs:

    a. *To pass an Order to the effect of initiation of the Liquidation process of the Corporate Debtor as per provisions of the Chapter – III of the Code.;*
    b. *To pass an Order appointing Shri Milind B. Kasodekar as Liquidator of the Corporate Debtor as per the provisions of the S. 34 (1) of the Code.;*
    c. *In absence of an orders under clause (a) and (b) herein-above, this Hon'ble Bench be pleased to pass an Order granting*

extension of 60 days for giving an opportunity to revival of the Corporate Debtor.;

d. *To exclude that time lapsed for adjudication of this Application, if any.;*

e. *To pass any other order in the interest of Equity, Justice and Good Conscience.*

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

A. The applicant mentioned that this Tribunal vide its order dated 17.12.2019 in Company Petition No. 4793 of 2019 admitted the petition under Section 9 of the Code, filed by M/s. Mark-O-lines Traffic Controls Private Limited (hereinafter referred to as the "Financial Creditor") and Corporate Insolvency Resolution Process (hereinafter referred to as the "CIRP") was initiated against M/s. Damoh – Jabalpur Toll Roads Private Limited, (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 17.12.2019.

B. The Applicant published public notice inviting Expression of Interest (EoI) on 18.06.2020 in two daily newspaper viz. Free Press Journal, Mumbai Edition (English) and Navshakti, Mumbai Edition (Marathi).

C. Based on the public notice, the Applicant received 2 EoIs from the Prospective Resolution Applicants (PRA). And the Applicant issued Evaluation Matrix and the request for the

Resolution Plans for the Resolution Plans on 21.08.2020 to the PRAs, whereas the scheduled last date to submit the PRAs was 20.09.2020.

D. The Applicant further stated that beside the aforementioned request no Resolution Plan nor any request for extension by the PRA/PRAs was received.

E. In the 8th CoC meeting which was held on 22.03.2021, in this meeting the Applicant informed the CoC that the statutory period of the CIRP would end on 24.03.3021 and till the date of the meeting no Resolution Plan was received by the Applicant for the Corporate Debtor. The CoC asked the Applicant to approach this Hon'ble Bench for further extension of the CIRP. However, the CoC neither passed the resolution for initiation of the Liquidation nor passed the resolution for extension of the CIRP period.

F. The Applicant states that the Corporate Debtor is a going concern and generating daily revenue from its operations. It is pertinent to note that during the F.Y. 2020-21 the Corporate Debtor has generated revenue of approx. ₹ 14 Crores. Hence, the CoC is of the opinion that beside the Liquidation the efforts for revival of the Corporate Debtor shall be taken.

G. Further, the statutory period of 270 days of the CIRP got end on 24.03.2021 and till the last date the Applicant has not received any Resolution Plan for the Corporate Debtor.

H. After the end of statutory period of CIRP period on 24.03.2021, the Applicant received an e-mail from one of the prospective resolution applicant seeking additional time to submit a resolution plan. However, till date no resolution plan has been received by the Applicant.

3. Heard the arguments of the counsel appearing for the Resolution Professional and perused the record.

4. The Applicant/ Resolution Professional Mr. Milind B. Kasodekar has agreed to act as liquidator to carry on the process of Liquidation and given his consent to act as Liquidator.

5. We have heard the Applicant and perused all the documents submitted by them. It is observed the Resolution Professional states that as the statutory time of the CIRP has been elapsed the Applicant does not have any remedy other than to seek Liquidation of the Corporate Debtor as per the provisions of the Section 33 (1) (a) of the Code decided to liquidate and relying on the settled principle of law regarding the Commercial Wisdom of the Resolution Professional, we hereby allow this Interlocutory Application Number 1090 of 2021 and passed the following:

ORDER

1. The above I.A. No. 1090/2021 is allowed and the M/s. Damoh – Jabalpur Toll Roads Private Limited is ordered to be liquidated.

i. **Mr. Milind B. Kasodekar,** having (Registration No. IBBI/IPA-002/IP-N00116/2017-2018/10285) and having office at: 77, Vijaynagar Colony, 2147, Sadashiv Peth, Pune, Maharashtra - 411030, is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.

ii. 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.

iii. 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.

iv. 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.

v. 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.

vi. 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.

vii. 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.

viii. 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.

ix. 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. 1090 of 2021 is hereby allowed and disposed of.

Sd/-

CHANDRA BHAN SINGH
MEMBER (TECHNICAL)

Sd/-

H.V. SUBBA RAO
MEMBER (JUDICIAL)