IN THE NATIONAL COMPANY LAW TRIBUNAL MUMBAI COURT-II
IA No.114/MB/2024 IN CP (IB) No.128/MB/2018

[Under Section 33 read with Section 60(5) of the Insolvency and Bankruptcy Code, 2016 and Rule 11 of the NCLT Rules, 2016]

MR. KAILASH SHAH
Resolution Professional of UNIQUE SUGARS LIMITED
505, 21st Century Business Centre,
Near World Trade Centre,
Ring Road, Surat - 395002

......Applicant/Resolution Professional

IN THE MATTER OF

AGARWAL COAL CORPORATION PVT LTD

...Operational Creditor

Vs.

UNIQUE SUGARS LIMITED

...Corporate Debtor

Pronounced:09.07.2025

CORAM:

HON'BLE SHRI ASHISH KALIA, MEMBER (JUDICIAL)

HON'BLE SHRI SANJIV DUTT, MEMBER (TECHNICAL)

Appearances: (Hybrid)

For Applicant	:	Adv. T.N. Chandrasekar.

राष्ट्रीय कम्पनी विधी अधिकरण
NATIONAL COMPANY LAW TRIBUNAL
मुंबई न्यायपीठ
MUMBAI BENCH

Certified True Copy
Copy Issued "free of cost"
On 14/07/2025
[signature]
Registrar
National Company Law Tribunal Mumbai Bench

ORDER

Per: Coram

BACKGROUND

1. This is an Interlocutory Application filed under Section 33 read with Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") and Rule 11 of the National Company Law Tribunal Rules, 2016 by **Mr. Kailash Shah,** Resolution Professional, (hereinafter referred to as "the Applicant/RP") on 23.11.2023 seeking order directing initiation of Liquidation of Unique Sugars Limited,(hereinafter referred to as "the Corporate Debtor") in accordance with Chapter III of Part II of the Code and appointment of Mr. Pawan Kumar Ramdhan Agarwal, Insolvency Professional as the Liquidator of the Corporate Debtor.

AVERMENTS OF APPLICANT/RP

2. An application bearing CP(IB) No.128/2018 was filed against the Corporate Debtor for initiation of Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") under Section 9 of the Code.

3. The aforesaid Company Petition was admitted by this Tribunal on 28.02.2019 directing initiation of CIRP in respect of the Corporate Debtor and Mr. Javadsha K. Vasa was appointed as the Interim Resolution Professional (IRP).

4. The IRP issued a public announcement dated 08.03.2019 in Form-A under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred

to as "CIRP Regulations") inviting claims from creditors of the Corporate Debtor and the last date of submission of claims was 21.03.2019.

5. MA 3156/2019 was filed for appointment of IRP as the Resolution Professional and the same was approved by this Tribunal *vide* order dated 30.09.2019.

6. The erstwhile IRP, Mr. Javadsha K. Vasa, published Form-G Invitation for Expression of Interest ('EoI') on 23.08.2019 wherein the last date for submission of Resolution Plans was 22.10.2019

7. However, in response to the said Form-G, no EoI was received by the erstwhile IRP. Thereafter, the Committee of Creditors ('CoC') decided to publish Form-G again and the same was published on 16.11.2019 and the last date for submission of EoI was 02.12.2019.

8. In response to the aforesaid Form G, the Applicant received a Resolution Plan on 02.12.2019 from one Prospective Resolution Applicant ('PRA') i.e., 'Rawalwasia Yarn Dyeing Private Limited' and the same was placed before the members of the CoC in the 7th meeting held on 06.12.2019 for their consideration.

9. In the 7^{th} CoC meeting held on 06.12.2019, the Plan was placed before the CoC. The Applicant informed the CoC that the Plan was not in compliance with Section 30(2)(b) of the Code and Regulation 38(1) of the CIRP Regulations. However, the CoC approved the Plan with 67.18% voting share.

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10. Pursuant to the approval of the Resolution Plan submitted by Rawalwasia Yarn Dyeing Private Limited by the CoC, the Applicant filed an Application No. 4059/20219 seeking approval of this Tribunal to the aforesaid Resolution Plan.

11. This Bench *vide* its order dated 16.10.2024 rejected the aforesaid Resolution Plan due to non-compliance with the provisions of Section 30(2)(b) and Regulations 38(1) of the CIRP Regulations, 2016. It was noted that there were no financial creditors of the Corporate Debtor and the CoC consisted of only the operational creditors and that the Plan had been approved by a voting percentage of 67.18% only which meant that all the operational creditors had not approved the Plan. In other words, the operational creditors, who had not voted in favour of the Plan or had abstained from voting were presumably not agreeable to the approval of the Plan. Further, it was noted that the dissenting operational creditors were being paid less than the liquidation value, contrary to what has been envisaged in Section 30 (2) of the Code.

12. Thereafter, the Applicant/RP, in the 21st CoC meeting convened on 24.10.2024 informed the CoC about the decision of this Tribunal in rejecting the Resolution Plan. Further, the CoC discussed the way forward in the process. The Applicant/RP apprised the members of CoC regarding Section 33(1) of the Code. In light of the aforesaid facts and circumstances, the members of the CoC *inter alia* granted their approval to the Applicant to file an IA before this Tribunal seeking initiation of Liquidation process of the Corporate Debtor along with appointment of Mr. Pawan Kumar Ramdhan Agarwal to act as the Liquidator for the Corporate Debtor. The CoC approved the above Resolutions with 83.04% voting share.

FINDINGS

13. We have perused the averments made in the IA and heard the Counsel for the Applicant/RP. Section 33(1)(b) of the Code lays down that where the Adjudicating Authority rejects the resolution plan under Section 31 for the non-compliance of the requirements specified therein, it shall pass an order requiring the corporate debtor to be liquidated in the manner as laid down in Chapter-III of Part-II of the Code; issue a public announcement stating that the corporate debtor is in liquidation and require the said order to be sent to the authority with which the corporate debtor is registered.

14. In the present case, we find that the members of the CoC having 83.04% voting share have already approved the resolution to initiate liquidation of the Corporate Debtor in its 21st meeting held on 24.10.2024 and to appoint Mr. Pawan Kumar Ramdhan Agarwal, IP, as the Liquidator of the Corporate Debtor. The Applicant has placed on record Written Consent of Mr. Pawan Kumar Ramdhan Agarwal, having IBBI Reg. No. IBBI/IPA-001/1P-P0O0414/2017- 2018/10737 residing at 42, Gopal Bhawan,199 Princess Street, Marine Lines Mumbai, Maharashtra, 400002 and having valid Authorization for Assignment up to 30.06.2026 to act as the Liquidator of the Corporate Debtor under Sections 33 and 34 of the Code.

15. In view of the facts and circumstances narrated above, we are of the considered opinion that this is a fit case for initiation of liquidation of the Corporate Debtor. Therefore, we hereby order the initiation of liquidation process of the Corporate Debtor subject to the following terms and directions :-

a. The Corporate Debtor, **Unique Sugars Limited**, is ordered to be liquidated in terms of the provisions of Section 33(1)(b) of the Code read with the relevant Regulations made thereunder which shall be effective from the date of this order.

b. This Bench hereby appoints **Mr. Pawan Kumar Ramdhan Agarwal, holding Registration No.IBBI/IPA-001/IP-P00414/2017-2018/10737**, residing at 42, Gopal Bhawan,199 Princess Street, Marine Lines, Mumbai-400002, Maharashtra and having email address **arbitratorpr@gmail.com** as the Liquidator of the Corporate Debtor in terms of Section 34 of the Code;

c. On the appointment of the Liquidator, all powers of the board of directors, key managerial personnel etc. shall cease to have effect and shall be vested in the Liquidator;

d. The Order of Moratorium passed under Section 14 of the Code shall cease to have effect from the date of this order;

e. A fresh Moratorium under Section 33(5) of the Code shall commence forthwith as the liquidation process is initiated. Subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. The Liquidator has the liberty to institute a suit and other legal proceedings on behalf of the Corporate Debtor with the prior approval of this Adjudicating Authority;

f. The liquidator shall issue a public announcement stating that the Corporate Debtor is in liquidation in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;

g. The Liquidator is directed to proceed with the process of liquidation in the manner laid down in Chapter III of Part II of the Code and in accordance with the relevant rules and regulations;

h. The Liquidator shall follow-up on and continue to investigate the financial affairs of the Corporate Debtor to determine undervalued or preferential transactions in accordance with provisions of Section 35(1) of the Code read with the relevant rules and regulations;

i. 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 Board of India (Liquidation Process) Regulations, 2016;

j. This order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor as per Section 33(7) of the Code except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator;

k. 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;

l. It is directed that the Personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required in managing the affairs of the Corporate Debtor as specified under Section 34(3) of the Code;

m. The Liquidator shall charge fees for the conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by the IBBI and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code;

n. The Applicant/Resolution Professional is directed to hand over custody or control of all the assets, property, effects and actionable claims of the Corporate Debtor to the newly appointed Liquidator forthwith;

o. The Liquidator shall be at liberty to approach the Adjudicating Authority for such orders or directions as may be necessary for the liquidation of the Corporate Debtor.;

p. Copy of this order be sent to the registered office of the Corporate Debtor, the Resolution Professional and the Liquidator by speed-post as well as email for taking necessary steps;

q. The Registry is directed to communicate this Order to the Registrar of Companies, Mumbai and the Insolvency and Bankruptcy Board of India;

16. **With these directions, IA No.114/2024** filed by the Applicant/RP stands **allowed and disposed of accordingly.**

Sd/-

SANJIV DUTT
MEMBER TECHNICAL

Sd/-

ASHISH KALIA
MEMBER JUDICIAL

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On 14/07/2025

Asst. Registrar
National Company Law Tribunal Mumbai Bench