

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-III**

**I.A. No. 938/2020
In
C.P. No. 162/IB/2019**

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

In the matter of
Punjab National Bank
... Financial Creditor

V/s.
Harneshwar Agro Products Power &
Yeast (I) Ltd. ... Corporate Debtor

I.A. No. 938/2020

Mr. Jigar Shah
... Applicant/
Resolution Professional

Order delivered on 03.12.2020

Coram:

Hon'ble Shri H. V. Subba Rao, Member (Judicial)
Hon'ble Shri Shyam Babu Gautam, Member (Technical)

Appearance (through video conferencing):

For the Applicant: Ms. Rubina Khan, Advocate

Per Shri Shyam Babu Gautam, Member (Technical)

ORDER

1. It is an application filed by the Resolution professional seeking liquidation of the Corporate Debtor namely (M/s. Harneshwar Agro Products Power & Yeast (I) Ltd.) on the ground that no resolution plan has been received by him, hence this application under Section 33 (1) of the Insolvency and Bankruptcy Code, 2016, praying following reliefs:

- a. *To liquidate the M/s. Harneshwar Agro Products Power & Yeast (I) Ltd. as per chapter III of the Insolvency and Bankruptcy Code, 2016;*
- b. *To appoint the Applicant Jigar Shah as the Liquidator in liquidation of M/s. Harneshwar Agro Products Power & Yeast (I) Ltd. the Corporate Debtor;*

- c. *To give direction as to Liquidator so appointed be paid fees in accordance with the Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.*
 - d. *To direct the NCLT Registry, Mumbai and Liquidator to intimate the concerned Registrar of Companies that this Tribunal has passed the liquidation order of this Corporate debtor;”*
2. The Adjudicating Authority vide its order dated 26.06.2019 on a Petition filed by the Financial Creditor under Section 7 of the Code directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor namely M/s. Harneshwar Agro Products Power & Yeast (I) Ltd., wherein Mr. Jigar Shah, was appointed as Interim Resolution Professional (IRP). Thereafter in the 1st Committee of Creditors (CoC) meeting held on 06.08.2019, Mr. Jigar Shah, was resolved to be appointed as Resolution Professional (RP).
 3. The RP submits that the public announcement was made on 10.07.2019, in “Financial Express” all editions in English and “Pudhari” in regional language in Marathi in Pune/Solapur.
 4. It is further submitted that an advertisement, inviting Expression of Interest (EoI) in Form G was published. Thereafter, no extension has been sought and no EoI was invited and no Resolution plan was received.
 5. The CoC in its 2nd meeting held on 16.09.2019 decided to appoint a Valuer. The RP accordingly appointed two registered valuers as required under Regulation 27 of the IBBI (IRP for Corporate Persons) Regulations, 2016 and the Information Memorandum was prepared as provided under Regulation 36(1) of the said regulation.
 6. The CoC in the 2nd CoC meeting held on 16.09.2019, it was informed in the meeting that there are no chance of revival of the Corporate debtor Company. The following Resolution was passed;
“Resolved that, the Corporate Debtor may be liquidated as the Corporate Debtor does not have any prospects Resolution or revival.”

7. Hence, the CoC in its 2nd meeting held on 16.09.2019, unanimously passed a resolution for liquidating the company. Accordingly, the Resolution Professional filed this application for liquidation of the Company as provided u/s. 33 of the Insolvency & Bankruptcy Code, 2016 (Code).
8. The Applicant/ Resolution Professional Mr. Jigar Shah, has agreed to act as liquidator to carry on the process of liquidation.
9. Upon hearing the submissions of the Applicant and on reading the Application and the documents enclosed therein it is found, the RP has complied with the procedure laid down under the Code; Regulations made thereunder. On verification, we are of the considered view that this is a fit case to pass liquidation order under sub-section 1 of section 33 of the Code for liquidation in the absence of any resolution plan. Hence ordered;

ORDER

- a. The Interlocutory Application is hereby allowed.
- b. Mr. Jigar Shah, Registration No. IBBI/IPA-001/IP-P01121/2018-2019/11820, herein is hereby appointed as Liquidator as provided under Section 34(1) of the Code.
- c. 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.
- d. 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.
- e. 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.

- f. 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.
- g. 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.
- h. 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.
- i. 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.
- j. 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.

Sd/-

SHYAM BABU GAUTAM
MEMBER (TECHNICAL)

Sd/-

H. V. SUBBA RAO
MEMBER (JUDICIAL)