

**THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV**

IA No. 2292/MB-IV/2022

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

Mr. Narendra Kumar

...Resolution Professional/
Applicant

In the matter of

CP (IB) No.3212/MB-IV/2019

UCO Bank

...Operational Creditor

Vs.

Narendra Solvex Private Limited

[CIN: U15140MH1991PTC061956]

...Corporate Debtor

Order delivered on: 27.01.2023

Coram:

Mr. Prabhat Kumar
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant/RP

:

M. Bilal Ali, RP.

ORDER

Per: Kishore Vemulapalli, Member (Judicial)

1. This is an Application filed by Mr. Narendra Kumar, Applicant/Resolution Professional, seeking liquidation of Narendra Solvex

Private Limited, (hereinafter referred as Corporate Debtor) under Section 33(1) of Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”).

2. The brief facts of the Application are as follows:
 - a) That this Tribunal, vide an order dated 16.09.2021 in Company Petition No. 3212/MB/C-IV/2019, admitted the petition under Section 7 of the Code, filed by UCO Bank (hereinafter referred to as the “Financial Creditor”) and Corporate Insolvency Resolution Process (CIRP) was initiated against Narendra Solvex 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.
 - b) The Applicant Submits that, the IRP had made Public announcements through Form G in two Local newspapers namely English, “Times of India and Marathi, Vidarbha Matdar, Nagpur Edition, as per the Regulation 6(3) of the Insolvency and Bankruptcy Board of India (Insolvency Regulation Process for Corporate Persons) Regulations,2016. The Applicant constituted the Committee of Creditors (hereinafter called as “COC”) comprises of Six Banks on 21.10.2021 and the Report COC had filed on 26.10.2021.
 - c) Pursuant to the issue of Form G, the Applicant received two (2) Expression of Interests (EOI) in the matter. The last date for submission of plan was 07.03.2022 which was extended up to 22.03.2022 as requests by PRAs. On the last day of submission of

Resolution Plan, the Applicant received only one Resolution Plan from M/s Ramdeo Pulses & Amit Babaria (in consortium).

- d) Application for extension of CIRP period was filed by the Applicant and this Tribunal allowed the extension of CIRP period by 90 days from 06.04.2022.
- e) In the 6th COC Meeting held on 11.05.2022, after couple of days given to the RA to submit its final resolution plan inclusive of its revised and final financial offer along with the changes required to be made in consonance with the observations made required to be made in consonance with the observations made by the RP and the COC members, in the Resolution Plan.
- f) Another Application was filed by the Applicant for extension of 30 days, beyond the period of 270 days, in order to seek voting upon the final Resolution Plan and further to complete the CIRP of the Corporate Debtor.
- g) In the 11th COC meeting after the detailed deliberation and discussion the Plan submitted by the only PRA was put for voting and the Resolution was passed in this respect.
- h) In the 11th COC meeting, the Resolution Plan placed before the COC stands rejected by the majority as it failed to garnish the requisite vote share of 66% as provided under section 30 (4) of the Code. Further, the period of CIRP i.e. 300 days already stands expired on 04.08.2022. Hence, the present Application has been filed by the Liquidator/Applicant in terms of Section 33 (1) (a) of the Code. Section 33 (1) (a) is as follows:

33. (1) Where the Adjudicating Authority, -

a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or

- i) We have heard the Counsel and the material available on record.
- j) We find that the COC had rejected the only Resolution Plan before it and the extended period of 270 days expired on 04.08.2022. The COC considered the estimated amount to meet the liquidation cost; assessment of sale as a going concern; and fee of the Liquidator as required under Regulation 39B, 39C and 39D of IBBI (Insolvency Resolution Process for Corporate Person) Regulation, 2016 in its 9th and 11th COC Meeting. Though the COC has resolved to seek further extension of 30 days beyond 300 days in its 11th COC Meeting, it seen from the records no such Application was received by this Tribunal.
- k) In view of forgoing discussion, we find that period permitted for completion of CIRP under section 12 has expired on 04.08.2022 and this Application has been filed on 18.08.2022 i.e. after the expiry of the extended CIRP period. Hence, we order as follows:

ORDER

- 3. IA No. 1089/MB-IV/2021 filed by Mr. Narendra Kumar, Applicant for the Liquidation of Narendra Solvex Private Limited is **Allowed**.

4. In view of the above observations, Mr. Narendra Kumar, Resolution Professional having Registration No. IBBI/IPA-002/IP-N00125/2017-2018/10294 is appointed as the Liquidator to conduct Liquidation process of Narendra Solvex Private Limited as provided under Section 34(1) of the Code.
5. That the Liquidator would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016 to conduct the liquidation proceedings.
6. 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.
7. 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.
8. 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.
9. 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.

10. 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.
11. This Liquidation Order u/s 33(7) 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, the IA No. 2292/MB-IV/2022 filed under section 33(1) by the Applicant is hereby **Allowed and Disposed of**.

Sd/-

Prabhat Kumar
Member (Technical)

27.01.2023

Sd/-

Kishore Vemulapalli
Member (Judicial)