

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

I.A. 1809 OF 2020

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

Filed by

Mr. Laxman Digambar Pawar

Resolution Professional of:

M/s Liveminds Solutions Pvt. Ltd

Office at: 15 & 16, Bhakti Complex,

1st Floor, Behind Dr. Ambedkar Statue,

Pimpri, Pune-411018

...Applicant

In the matter of

C.P. No. 3547 of 2019

Hemant Shah & Associates LLP

Office No. 304, Jai Ganesh Vishwa,

Vishrantwadi Square, Pune,

Maharashtra 411 015

...Operational Creditor

versus

Liveminds Solutions Private Limited

Unit No. 02, Apollo Industrial Estate, Off.

Mahakali Caves Road,

Andheri (E), Mumbai 400093

...Corporate Debtor

Order delivered on: 12.02.2021

Coram:

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

Hon'ble Shri Shyam Babu Gautam, Member (Technical)

Appearance:

For the Resolution Professional: Adv. Raina Birla

Per: Shri Shyam Babu Gautam, Member

ORDER

1. It is an application filed by Resolution Professional, Mr. Laxman Digambar Pawar seeking liquidation of Livemind Solutions Private Limited (hereinafter referred as Corporate Debtor) under Section 33(1) read with Section 60 of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”), praying for following reliefs:
 - a. *Consider and allow the instant IA No. 1809 of 2020 for initiating liquidation of Corporate Debtor under Section 33(1)(a) and 34(1) of IBC, 2016 as there are no realizable assets;*
 - b. *Pass such further and/or other order(s) and/or direction(s) as the facts and circumstances of the matter may warrant; for which act of kindness, the applicant shall, as in duty bound, for every pray.*

2. The counsel for the Applicant submitted that this Tribunal vide an order dated 24.01.2020 in Company Petition No. 3547 of 2019 admitted the petition under Section 9 of the Code, filed by Hemant Shah & Associates LLP (hereinafter referred to as the “Operational Creditor”) and Corporate Insolvency Resolution Process (CIRP) was initiated against Livemind Solutions 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. Upon his appointment as the IRP, the applicant published a public announcement of CIRP in Form A dated 02.02.2020 in two newspapers inviting claims from all the creditors of the Corporate

Debtor. The Committee of Creditors (CoC) was formed and the 1st meeting was held on 25.02.2020 wherein the CoC approved resolution allowing IRP to continue as Resolution Professional (RP).

3. During the 2nd meeting of the CoC which was held on 19.09.2020, the CoC decided to liquidate the company as there are no realizable assets and hence no valuers are appointed for the valuation of the assets. There are some deferred tax assets like carried forward losses and long-term loans & advances like Advance Tax & Tax deducted at source which are not realizable. There are some short-term loans & advances like prepaid expenses which are also not realizable. The CoC approved the initiation of liquidation of the Corporate Debtor by passing the resolution with voting share of 100%. The CoC directed the Resolution Professional to file application for seeking directions and order under Section 33(1)(a) and 34(1) of the Code from this Tribunal. The relevant paragraph is hereby reproduced:

“RESOLVED THAT, the Committee of Creditors, at their second meeting held on 19.09.2020 approved the initiation of liquidation of the corporate debtor and hence Resolution Professional is hereby directed to file miscellaneous application and seek further direction and order under section 33(1)(a) and 34(1) of the code from the Hon’ble NCLT, Mumbai as there are no realizable assets.”

“Further resolved that Resolution Professional Mr. Laxman Digambar Pawar Reg. No. IBBI/IPA-003/IPN00015/2017-2018/10104 be appointed as liquidator and his fees will be prescribed under IBC, 2016 as per regulation 4(3) of IBBI (Liquidation Process) Regulation, 2016.”

ORDER

We have heard the Applicant and perused all the documents submitted by them. It is observed from the minutes of the 2nd CoC meeting that the CoC has, with 100% majority, decided to liquidate the Corporate Debtor and relying on the settled principle of law regarding the Commercial Wisdom of the CoC, we hereby allow this Miscellaneous Application bearing Number I.A. 1809 of 2020 with the following observations and directions:

- a. **Mr. Laxman Digambar Pawar**, having Registration No. IBBI/IPA-003/IP-N000015/2017-2018/10104 and having office at: 15 & 16 Bhakti Complex, 1st Floor, Behind Dr. Ambedkar Statue, Pimpri, Pune – 411 018, 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 as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
- 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. 1809 of 2020 is hereby allowed and disposed of.

Sd/-

SHYAM BABU GAUTAM
MEMBER (TECHNICAL)

Sd/-

H.V. SUBBA RAO
MEMBER (JUDICIAL)