

**NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT V**

I.A. 2052 OF 2020

IN

CP (IB) -2159/I&B/MB-V/2019

Under Section 33 & 34 of the Insolvency &
Bankruptcy Code, 2016

In the matter of

Mr. Dinesh Mundada

Resolution Professional for:

M/s Magna Research and Solutions
Private Limited

...Applicant

In the matter of

Pankaj Modani,

... /Petitioner

Versus

Magna Research & Solutions Pvt. Ltd.,
...Corporate Debtor

Order delivered on: 02.05.2023

Coram:

Hon'ble Shri Kuldip Kumar Kareer, Member (Judicial)

Hon'ble Shri Prabhat Kumar, Member (Technical)

Appearance:

For the Applicant: Adv. Geeta Lundwani appearing for the
RP/applicant

Per: Kuldip Kumar Kareer, Member (Judicial)

ORDER

1. The above application I.A. No. 2052/2022 is filed by Resolution Professional, **Mr. Dinesh Mundada** (hereinafter referred to as the “**Applicant**”) seeking liquidation of **M/s Magna Research and Solutions Private Limited** (hereinafter referred to as the “Corporate Debtor”) under Section 33 & 34 of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”), praying for following reliefs:

- a. The Hon’ble Tribunal shall be pleased to admit the instant application and pass an order of Liquidation of Corporate Debtor in terms of Section 33 of the Code and Section 34 of the Code.*
- b. To pass an order in terms of deciding/conforming the appointment of Mr. Dinesh Gopal Mundada i.e. the applicant as Liquidator of the Corporate Debtor in terms of Section 34 of the Code.*
- c. The applicant craves leave for filing additional details/information/documents as and when required by the Hon’ble Tribunal and same be taken on record.*
- d. Any other relief as the Hon’ble Tribunal may deem fit.*

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

- A. The Applicant mentioned that this Tribunal vide its order dated 18.09.2019 in Company Petition (IB) No. 2159 of 2019 admitted the Petition under Section 8 & 9 of the Code, filed by Pankaj Modani (hereinafter referred to as the “Petitioner”) and Corporate Insolvency Resolution Process (hereinafter referred to as the “CIRP”) was initiated against M/s Magna Research & Solutions Private Limited. Mr. Dinesh Gopal Mundada, herein was appointed as the Interim Resolution Professional (hereinafter referred to as the “IRP”) of the Corporate Debtor by this Tribunal vide this Order dated 18.09.2019.

- B. After appointment of IRP, applicant made a public announcement in Form 'A' on 19.10.2019. The applicant further states that Committee of Creditors (herein after referred as CoC) was constituted on 05.11.2019.
- C. The Counsel for the Applicant states that applicant along with his team on 21st October, 2019 visited the factory premises of the Corporate Debtor, wherein they were shocked to realize that no assets including any stock was lying in the premises. The Suspended Director further apprised the applicant that the operations of the Corporate Debtor have been ceased since August 2018 hence the premises have no stock or assets.
- D. It is further state that the there has been persistent non-co-operation from the promoters/directors of the Company to provide all the relevant information about the affairs of the Company, access to accounts, etc., right from the inception of CIRP Period hence the RP filed an Interlocutory Application under Section 19(2) before the NCLT, Mumbai.
- E. The said application came up for hearing before the Tribunal on 27.02.2020, wherein the applicant brought to the notice of the Bench the fact that there are no assets of the Corporate Debtor on which the Bench suggested the Applicant/RP to approach the CoC to decide on future course of action in respect of the CIRP.
- F. In the 7th meeting of the CoC held on 06.10.2020, the CoC interalia discussed in depth the progress of the CIRP and possibilities of reviving the Corporate Debtor. After evaluating the possibilities of reviving the Corporate Debtor and taking into consideration the cost involved in carrying out the CIRP process, the CoC by a majority of 90.6% voted in favour of

liquidating the Corporate Debtor in accordance with section 33 of the Code and authorized the applicant to prefer necessary application before the Tribunal. The relevant portion of the Resolution is reproduced as below:

“RESOLVED THAT *M/s. Magna Research and Solution Private Limited, Corporate debtor to go under Liquidation as per CoC decision.”*

“RESOLVED THAT *Mr. Dinesh Gopal Mundada is hereby appointed as Liquidator for M/s. magna Research and Solution Private Limited, Corporate Debtor on a fee of Rs. 1,00,000/- (Rupees One Lakhs Only).”*

The result of the voting was as follows:

<i>Sr. No.</i>	<i>Members Name</i>	<i>Voting %</i>	<i>Assent</i>	<i>Dissent</i>	<i>Abstained from Voting</i>
<i>1</i>	<i>M/s. Nagar Urban Co-operative Bank Limited</i>	<i>90.6</i>	<i>√</i>		

G. The COC after obtaining the written consent dated 06.10.2020, from the Applicant to act as the Liquidator and also resolved to appoint the Applicant as Liquidator of the Corporate Debtor.

3. Heard the counsel appearing for the Resolution Professional and perused the record. The counsel for the RP submits that no Resolution Plan has been received and there is no option except to put the Corporate Debtor Company into Liquidation as per the Code as well as also to protect the asset of the Corporate Debtor from further deterioration. The counsel appearing for the Applicant also

filed consent letter to act as the liquidator. In view of the above facts, this Bench feels that this is a fit case for ordering Liquidation of the Corporate Debtor. Accordingly, the Interlocutory Application Number 2052 of 2020 is allowed directing Liquidation of the Corporate Debtor. Accordingly, we pass the following:

ORDER

4. The above I.A. No. 2052/2020 is **allowed** and the Corporate Debtor M/s Magna Research & Solutions Pvt. Ltd. is ordered to be liquidated.
 - a. **Mr. Dinesh Gopal Mundada**, having Registration No. IBBI/IPA-001/IP-P00286/2017-18/10530 and having office at: 403, Fortune House, Near Occasion Lawn, Baner-Pashan Link Road, Baner, Pune – 411 045 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.

5. With the above directions, this application i.e. I.A. No. 2052 of 2020 is hereby **allowed** and **disposed of**.

SD/-

**PRABHAT KUMAR
MEMBER (TECHNICAL)**

SD/-

**KULDIP KUMAR KAREER
MEMBER (JUDICIAL)**