

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

**IA (IBC) (LIQ)-70 (MB-IV)/2025**

**In**

**C.P.(IB)/600/(MB)/2023**

*[Under Section 33(2) of the Insolvency  
and Bankruptcy Code, 2016]*

**CS Mandar S. Wagh,**

... Resolution Professional/ Applicant

**In the matter of**

**M/s. Shubham Electrotech Private  
Limited**

...Original Petitioner

**Vs.**

**M/s. Marks Pryor Marking Technology  
Private Limited**

...Corporate Debtor

**Pronounced: 16.10.2026**

**Coram:**

**SHRI ANIL RAJ CHELLAN**

**SHRI K. R. SAJI KUMAR**

**HON'BLE MEMBER (TECHNICAL)**

**HON'BLE MEMBER (JUDICIAL)**

**Appearances : Hybrid**

For the Applicant : Adv. Avinash R Khanolkar a/w Adv.  
Maheshkumar T. Nulolu & Adv.  
Khushbu Bhanushali.

**ORDER**

- 1.** This Application has been filed by the Resolution Professional (RP) under Section 33 of the Insolvency and Bankruptcy Code, 2016 (Code) for initiating the Liquidation Process of Marks Pryor Marking Technology Private Limited (Corporate Debtor) based on the resolution passed by the Committee of Creditors (CoC).
- 2.** The facts leading to the filing of this Application are as follows:
  - a. On a Petition filed by Shubham Electrotech Private Limited under Section 9 of the Code, the CIRP was initiated in respect of the Corporate Debtor and the Applicant was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor.
  - b. Pursuant to the appointment, the IRP caused a public announcement on 09.12.2023 in two newspapers, namely, 'Daily Financial Express', Pune Edition (English) and 'Dainik Loksatta', Pune Edition (Marathi), calling upon the claims against the Corporate Debtor on or before 20.12.2023.
  - c. In response to the public announcement, the IRP received one claim by a Financial Creditor amounting to Rs.11,06,26,372.57/- and 10 claims by Operational Creditors, totalling Rs. 24,51,09,797/-. Based on the claims received, the IRP constituted the CoC with the sole Financial Creditor, i.e., Bank of Maharashtra.
  - d. As decided by the CoC at its 2<sup>nd</sup> meeting, an application for withdrawal of the CIRP was filed before the Adjudicating

Authority, which was disposed of with a direction to file an appropriate application under Section 12A of the Code along with Form FA. Because the application for withdrawal was disposed of, the CoC decided to continue the CIRP.

- e. In the meantime, the statutory period of 180 days expired, and the Applicant filed an application seeking extension of the CIRP period, which was allowed by this Tribunal. However, the CoC opined that there is less possibility of some interested party coming forward for placing a Resolution Plan since the Corporate Debtor had not been in operation for a long time and most of the assets of the Corporate Debtor have been realised by the Secured Creditor under the SARFAESI Act before commencement of the CIRP.
- f. In the circumstances, the CoC has not approved any resolution for publication of Form G, appointment of valuers, appointment of transaction auditor, etc. Since the resolutions proposed by the Applicant were not considered by the CoC, the Applicant was left with no option but to put an agenda for liquidation of the Corporate Debtor. Accordingly, the 7<sup>th</sup> CoC meeting held on 27.06.2025, passed a resolution with 100% voting to commence the liquidation process. However, the CoC has not recommended any insolvency professional to be appointed as liquidator for the Corporate Debtor.

- 3.** We have heard the Ld. Counsel for the Applicant and perused the material available on record.

4. The records reveal that this Application is filed for initiating liquidation of the Corporate Debtor based on the Resolution passed by the CoC. The CoC formed this opinion without undertaking the publication of Form G, valuation of assets, transaction audit, etc., mainly because the Corporate Debtor's business was not operational. It is stated that the Corporate Debtor generated no revenue and had no active contracts during the last four years. Further, the Corporate Debtor has no business assets of substantial value that could form the basis for revival or resolution. The Corporate Debtor possesses only one asset, i.e., a residential flat, which does not constitute a business asset, and the valuation available with the CoC is negligible compared to the outstanding balances. In light of this, the CoC, in its commercial wisdom, is not in favour of conducting the futile exercise of issuing Form G.
5. The Applicant submits that he had conducted seven meetings of the CoC, though no progress could be made in the CIRP. The extended CIRP period also expired on 06.07.2024. In the absence of any resolution plan for the Corporate Debtor and given that the CIRP period has expired, the Applicant is obligated to file the Application under Section 33(1)(a) of the Code. Accordingly, the Applicant has filed this Application.
6. It is observed that the CoC in its 7<sup>th</sup> CoC meeting held on 27.06.2025 passed the following resolution.

***"RESOLVED THAT*** pursuant to the provisions of Section 33(2) of the Insolvency and Bankruptcy Code 2016, the Corporate Debtor, Marks Pryor Marking Technology Private

*Limited, be liquidated and that the Resolution Professional be and is hereby authorized to inform this decision of the Committee of Creditors to the Hon'ble NCLT Mumbai Bench by filing appropriate application for necessary orders.”*

*The results were as follows:*

| <i>Yes (%)</i> | <i>Against / Abstained (%)</i> | <i>Total</i> |
|----------------|--------------------------------|--------------|
| <i>100%</i>    | <i>0%</i>                      | <i>100%</i>  |

*The resolution was passed unanimously.”*

- 7.** As per Section 33 (2) of the Code, where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of the resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors approved by not less than sixty-six percent of the voting share to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order. A plain reading of this provision indicates that the decision regarding whether to liquidate the corporate debtor falls squarely within the commercial decision of the CoC.
- 8.** In the matter of *Sreedhar Tripathy v. Gujarat State Financial Corporation and Ors.* [(12.10.2022 - NCLAT): MANU/NL/0788/2022], the Hon'ble NCLAT has stated in para 7 as under:

*“The Explanation under Section 33(2) has been inserted by Act of 26 of 2019 contains the legislative declaration and intention. The CoC in the Legislative Scheme has been empowered to take decision to liquidate the Corporate Debtor, any time after its constitution and*

*before confirmation of the resolution plan. The power given to the CoC to take decision for liquidation is very wide power which can be exercised immediately after constitution of the CoC. The reasons which has been given in Agenda Item 1, it is made clear by the CoC that the Corporate Debtor is not functioning for last 19 years and all machinery has become scrap, even the building is in dilapidated condition and the CIRP will involve huge costs. We are not convinced with the submission of learned counsel for the Appellant that the CoC's decision is an arbitrary decision. CoC is empowered to take decision under the statutory scheme and when in the present case the decision of the CoC for liquidation has been approved by the Adjudicating Authority, we see not good ground to interfere at the instance of the Appellant. However, we make it clear that the decision taken by the CoC was in the facts of the present case and it cannot be said that whenever decision is taken for liquidation the same is not open to judicial review by the Adjudicating Authority and this Appellate Tribunal. It depends on the facts of each case as to whether the decision to liquidate the Corporate Debtor is in accordance with the I & B Code or not. With these observations, the Appeal is dismissed.”*

9. In the instant matter, we observe that several actions that should have been carried out during the CIRP are still pending. These actions include taking custody and control of all assets of the Corporate Debtor, appointing registered valuers within the specified time to value the assets, and forming an opinion on whether the Corporate Debtor has been subjected to any transaction covered under Sections 43, 45, 50, and 66 of the Code. However, the Corporate Debtor ceased its business operations

before the insolvency commencement date, and the assets traced so far may not generate sufficient interest to resolve the Corporate Debtor. Moreover, the CoC, with the requisite majority, passed a resolution to liquidate the Corporate Debtor. In the light of these circumstances, and upon satisfaction of requirements under Section 33(2) of the Code, we consider it appropriate to pass an order for the liquidation of the Corporate Debtor. CoC has not recommended any insolvency professional to be appointed as the liquidator of the Corporate Debtor.

**10.** Hence, this Bench orders as follows:

**ORDER**

- a. The captioned Application is allowed. Consequently, the Corporate Debtor, **Marks Pryor Marking Technology Private Limited**, is ordered to be liquidated in the manner as laid down in Chapter III of the Code.
- b. We hereby appoint **Mr. Atul Narayan Naik**, Insolvency Professional, having Registration No. IBBI/IPA-003/ICAI-N-0385/2021-2022/14011, email: [annaik129@gmail.com](mailto:annaik129@gmail.com), Mob. No: 9607652555; address- A 1201, Dosti Pine, Dosti West County, Balkum, Thane - West, Thane, Maharashtra, 400608, as Liquidator of the Corporate Debtor, viz., Marks Pryor Marking Technology Private Limited. The appointment shall be subject to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of

India (Insolvency Professionals) Regulations, 2019. The Liquidator is directed to submit his consent to act as Liquidator within 10 days of receipt of this order. The erstwhile RP/Applicant shall hand over all papers and documents in his possession concerning the Corporate Debtor to the Liquidator appointed in this matter within 10 days.

- c. The Liquidator shall initiate the liquidation process as envisaged under Chapter III of the Code and the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (Liquidation Process Regulations). He shall take into his control all the assets of the Corporate Debtor, and also form an opinion with respect to the preferential transactions.
- d. All the powers of the Board of Directors and key managerial persons shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator. The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code, read with the Liquidation Process Regulations.
- e. The Moratorium declared under Section 14 of the IBC shall cease to operate from the date of this Order.
- f. The Liquidator shall issue a public announcement stating that the Corporate Debtor is in Liquidation.

- g. Subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor.
  - h. Personnel connected with the Corporate Applicant shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
  - i. This Order shall be deemed to be a notice of discharge to the officers, employees, and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
  - j. The Liquidator shall submit progress reports as per Regulation 15 of the Liquidation Process Regulations.
  - k. The Liquidator is hereby authorised to represent the Corporate Debtor before the Government Authorities, if need be.
- 11.** Registry shall furnish a copy of this Order to the Insolvency and Bankruptcy Board of India; Regional Director (Western Region), Ministry of Corporate Affairs; Registrar of Companies; Official Liquidator, Maharashtra; the Registered Office of the Corporate Applicant; and the Liquidator, Mr. Atul Narayan Naik.
- 12.** Needless to say, the CoC shall ratify and clear the fees of the erstwhile Resolution Professional of the Corporate Debtor, if any, due and payable and pay an amount of Rs.2,00,000/- to the Liquidator to meet the preliminary expenses.

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- 13.** With the aforesaid observations and directions, **IA (IBC) (Liq.) No. 70 of 2025 stands disposed of as allowed.**
- 14.** Ordered Accordingly.

**Sd/-  
ANIL RAJ CHELLAN  
MEMBER (TECHNICAL)**

**Sd/-  
K R SAJI KUMAR  
MEMBER (JUDICIAL)**