

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

I.A. 1182 OF 2021

IN

CP (IB) - 1916/I&BP/2019

Under Section 33 (2) of the Insolvency &
Bankruptcy Code, 2016

Filed by

Mr. Jeetendra Rajpal Daryani

Resolution Professional for:

Goodwin Jewellers Private Limited

...Applicant

In the matter of

Payal Gold Private Limited

201, Shanti Plaza, 195/197, Kalbadevi

Road, Near Cotton Exchange,

Mumbai - 400002

...Operational Creditor

Versus

Goodwin Jewellers Private Limited

Unit Nos. 1, 2, 3, 4 & 5, 1st Floor,

Panhalgad, Shiv Market, Manpada Road,

Dombivli (East), Dombivli,

Thane - 421201

...Corporate Debtor

Order delivered on: 08.02.2022

Coram:

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

Hon'ble Shri Chandra Bhan Singh, Member (Technical)

Appearance:

For the Applicant: Mr. Shavez Mukri (Advocate)

a/w Mr. Jeetendra Rajpal Daryani (Resolution Professional)

1. The above application I.A. No. 1182/2021 is filed by Resolution Professional, Mr. Jeetendra Rajpal Daryani (hereinafter referred to as the “Applicant”) seeking liquidation of Goodwin Jewellers Private Limited (hereinafter referred to as the “Corporate Debtor”) under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”), praying for following reliefs:

- a. *That this Hon’ble Tribunal be pleased to pass an order under Section 33 (1) of the Insolvency and Bankruptcy Code, 2016 for commencement of liquidation process of the Corporate Debtor;*
- b. *That this Hon’ble Tribunal be pleased to appoint Mr. Jeetendra Rajpal Daryani having registration no. IBBI/IPA-001/IP-P00678/2017-18/11146 as the Liquidator of the Corporate Debtor;*
- c. *Any other order as this Hon’ble Tribunal deems fit and proper in the Interest of Justice.*

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

- A. The Applicant mentioned that this Tribunal vide its order dated 20.12.2019 in Company Petition No. 1916/I&BP/2019 admitted the petition under Section 8 and 9 of the Code, filed by Payal Gold Private Limited (hereinafter referred to as the “Operational Creditor”) and Corporate Insolvency Resolution Process (hereinafter referred to as the “CIRP”) was initiated against Goodwin Jewellers Private Limited. Mr. Pankaj Ramandas Majithia was appointed as the Interim Resolution Professional (hereinafter referred to as the “IRP”) of the

Corporate Debtor by this Tribunal vide Order dated 20.12.2019.

- B. It is further stated by the Applicant that on 24.12.2019 a public announcement was made inviting claims from the Creditors of the Corporate Debtor in two newspapers namely The Free Press Journal (English) and Navashakti (Marathi).
- C. On 24.01.2020, the 1st meeting of the Committee of Creditors (hereinafter referred to as the "CoC") was convened. In the 2nd meeting of the CoC which was convened on 12.02.2020 thereby the Applicant was appointed as the Resolution Professional for the remaining period of CIRP of the Corporate Debtor which was approved by 100% members voting in favour of the same, which was further approved by this Hon'ble Tribunal in I.A. 861 of 2020 vide order dated on 18.11.2020.
- D. The Applicant further states that in the 6th CoC Meeting which was held on 18.03.2021, the members of the CoC concluded that as the assets are in the possession of Economic Offences Wing lying in the Dombivali and Bhiwandi are only Furniture, Fixtures, AC's and Office Equipment and no valuables are in their possession and CoC can go for liquidation without publishing EoI to Prospective Resolution Applicant's, hence the CoC decided to go for Liquidation of the Corporate Debtor. Thereafter, the CoC approved the same with 99.80% voting decided to put the following resolution, the relevant extract of the resolution is reproduced herein below for ready reference:-

"RESOLVED THAT the approval of members of CoC is hereby granted for making an application for Liquidation of Corporate Debtor Goodwin Jewellers Pvt. Ltd., with the Hon'ble NCLT

Mumbai, and that the Resolution Professional is hereby authorised to file the application for Liquidation through a Legal Counsel”.

E. The Applicant further states that in the 8th CoC Meeting, which was held on 12.05.2021. In the said meeting appointment of the Applicant as Liquidator was discussed, which was approved by the CoC with 99.39% voting approving the appointment of the Applicant as the Liquidator of the Corporate Debtor. Thereafter, the Committee decided to put the following resolution, the relevant extract of the resolution is reproduced herein below for ready reference:-

“RESOLVED THAT *the Resolution Professional Mr. Jeetendra Rajpal Daryani having registration no. IBBI/IPA-001/IP-P00678/2017-18/11146 is appointed as Liquidator of the Corporate Debtor Goodwin Jewellers Pvt. Ltd. to carry out the process in terms of the provisions of the code at a fixed remuneration of Rs. 2,50,000/- plus GST and out of pocket expenses at actuals.”*

F. The Applicant further states that on the basis of the facts the Applicant seeks an order under Section 33(2) of the Code for the liquidation of the Corporate Debtor on the following ground:

- i. That the Corporate Insolvency Resolution Process (CIRP) period has expired on 15th February, 2021.
- ii. That the Corporate Debtor is not operational.
- iii. No EoI published and as such no Resolution Plan received for the Corporate Debtor.
- iv. In absence of any assets and records No Valuation Report available.

3. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, it is observed from the minutes of the 6th CoC meeting that the CoC has with 99.80% majority decided to liquidate the Corporate Debtor, further in the 8th CoC meeting the CoC with 99.39% has approved the appointment of the Liquidator as well as the Liquidation Cost of the Applicant /Resolution Applicant of Rs. 2,50,000/- plus GST and out of pocket expenses at actuals. The Applicant/ Resolution Professional Mr. Jeetendra Rajpal Daryani has appointed as Liquidator to carry on the process of Liquidation of the Corporate Debtor. This bench has no option except to allow the above Interlocutory Application Number 1182 of 2021. Accordingly, we pass the following:

ORDER

1. The above I.A. No. 1182/2021 is allowed and the Corporate Debtor Goodwin Jewellers Private Limited is ordered to be liquidated.
 - a. **Mr. Jeetendra Rajpal Daryani**, having Registration No. IBBI/IPA-001/IP-P00678/2017-18/11146 and having office at: B – 504, Atlantis, Hiranandani Gardens, Powai, Mumbai - 400076 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 a fixed remuneration of Rs. 2,50,000/- plus GST and out of pocket expenses at actuals.
 - 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.
1182 of 2021 is hereby allowed and disposed of.

Sd/-

Chandra Bhan Singh
MEMBER (TECHNICAL)

Sd/-

H.V. Subba Rao
MEMBER (JUDICIAL)