THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

I.A. 1246 OF 2021
Under Section 33(1) of Insolvency & Bankruptcy Code, 2016

Mr. Laxman Digambar Pawar
E-307, Kohinoor Vayona Co-operative Housing Society, Opp.PCMC Building, Pimpri, Pune-411018

Resolution Professional/
…Applicant

In the matter of
C.P.(IB) No. 2139/MB/2019
M/s. Pawar Milk Suppliers
Operational Creditor
Vs.
M/s. Pandhari Milk Private Limited
Corporate Debtor

Order delivered on: 15.03.2022

Coram:

Mr. Rajesh Sharma
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant/RP	:	Ms. Nutan Powle, Advocate & Mr. Laxman Pawar, RP present in person

ORDER

Per: Kishore Vemulapalli Member (Judicial)

1. The above application is filed by Mr. Laxman D. Pawar Applicant/ Resolution Professional, seeking liquidation of M/s. Pandhari Milk Private Limited, (hereinafter referred as Corporate Debtor) under Section 33(1) (a) and 34(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 03.09.2019 in Company Petition No. 2139/2019 admitted the petition under Section 9 of the Code, filed by M/s Pawar Milk Suppliers (hereinafter referred to as the "Operational Creditor") and Corporate Insolvency Resolution Process (CIRP) was initiated against Pandhari Milk Private Limited, (hereinafter called as the "Corporate Debtor"). The MA/3655/2019 was filed to replace proposed IRP Mr. Uday Kumar Bhaskar Bhat and to appoint the present applicant as the Interim Resolution Professional (IRP) of the Corporate Debtor by this Tribunal vide this Order. The applicant was proposed as Resolution Professional in the First COC meeting held on 24.10.2019. Pursuant to that, the Hon'ble Tribunal passed an order on 23.01.2020 appointing the applicant as the Resolution Professional of the Corporate Debtor.

B. The Applicant submits that the CIRP is a time bound process and the last date of completion of CIRP period was 29.03.2020 an approval was sought by the applicant from COC for filing application for the extension of the CIRP by a further period of 90 days u/s 12(2) of the Code. The said matter with respect to the approval for filing on application for extension of CIRP was put for vote of COC members in the 2nd COC meeting held on 10.02.2020, the COC unanimously voted for extension of 90 days.

C. Accordingly, MA/597/2020 was filed by the applicant for seeking the extension of CIRP period. The Hon'ble Tribunal vide order dated 03.03.2020 allowed the same (extension period from 30.03.2020 to 26.06.2020).

D. In the 2nd meeting held on 10.02.2020 COC approved the EOI Form G and directed RP to publish the same. On 19.02.2020 Form G was published in Financial Express and Navrashtra times. In response to the said publication no Resolution applicant expressed their interest.

E. The Applicant submits that, the 3rd COC meeting held on 09.03.2020 as on EOI received, COC approved the publication of Form G for second time on all India basis. Accordingly, Form G was published on 01.09.2020 in Indian Express and Loksatta.

F. The Applicant submits that, as per the resolution passed in the 5th COC meeting held on 27.08.2020, publication of Form G was issued by the RP on 01.09.2020 in Indian Express (all over India) and Loksatta (all over Maharashtra.

G. The Applicant submits that due to COVID-19 pandemic, state - wide Lockdown was imposed on 23.03.2020, followed by which there was nation-wide lockdown, and therefore, it was impossible for the RP to carry out the CIRP and therefore the extension of 90 days period needs to be excluded.

H. The Applicant submits that, the 6th COC meeting held on 15.10.2020, the COC members decided that an application needs to be filed as per the provisions laid down under the Regulations 40(c) of IBC ,2016 or any other further amendments.

I. The Applicant submits that, the 7th COC meeting held on 27.10.2020, the RP informed the COC members that pursuant to the Publication of Form G received following 2 EOI dated 15.10.2020 namely: -

a) Panchatatwa Milk Industries Private Limited

b) Mr. Satish Dhondiram Chavan

Accordingly, RP issued Information Memorandum and Request for Resolution Plan to both the EOI's.

J. The Applicant submits that, the 14th COC meeting held on 20.05.2021, the COC members decided to take the decision on liquidation of the Corporate Debtor in the next COC meeting on 27.05.2021, after giving the Resolution Applicant Mr. Satish Chavan final opportunity to pay Performance Guarantee by 25.05.2021. Accordingly, final reminder was sent to Resolution Applicant and if he fails to do so then, the decision shall be taken by the COC regarding the approval of the Liquidation process of the Corporate Debtor.

K. The Applicant submits that in the 15th meeting held on 27.05.2021, COC approved with 100% majority the initiation of liquidation of the Corporate Debtor. Relevant extract of the Resolution passed is reproduced hereunder: -

> *"**RESOLVED THAT** to file an application before the NCLT, Mumbai Bench for liquidation of the Corporate Debtor.*
>
> ***FURTHER RESOLVED THAT** Mr. Laxman Digambar Pawar, the Resolution Professional of the Corporate Debtor, be and is hereby authorized to take the necessary steps to file the said Application with the NCLT, Mumbai Bench to obtain its approval for the same."*

ORDER

a. I.A. 1246/2021 filed by the Applicant for the Liquidation of Pandhari Milk Private Limited.

b. Mr. Laxman Digambar Pawar, having Registration No. IBBI/IPA-003/IP-N00015/2017-2018/10104 is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.

c. 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.

d. 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.

e. 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.

f. 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.

g. 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.

h. 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.

i. 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.

j. 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 I.A. No.1246/ 2021 filed u/s33(1) by the applicant is hereby allowed and disposed off.

Sd/-	Sd/-
KISHORE VEMULAPALLI	RAJESH SHARMA
Member (Judicial)	Member (Technical)
15.03.2022	