

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

12. I.A. 233/2022

IN

C.P.(IB)-4431(MB)/2019

CORAM: SHRI. H.V.SUBBA RAO, MEMBER (J)
SHRI CHANDRA BHAN SINGH, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **01.04.2022**

NAME OF THE PARTIES: PPG Asian paints Private Limited

V/s

Neel Motors LLP

SECTION 7 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Ms. Sneha Nanandkar i/b Adhita Advisors counsel appearing for the
Resolution Professional /Applicant, is present through virtual hearing.

Heard the arguments of counsel appearing for the RP.

The above Interlocutory Application bearing No. 233/2022 is allowed
detailed order follows:

Sd/-
CHANDRA BHAN SINGH
Member (Technical)

Sd/-
H.V.SUBBA RAO
Member (Judicial)

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

**I.A. No. 233 of 2022
In
C.P. No. 4431/IB/2019**

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

In the matter of
PPG Asian Paints Pvt. Ltd.
...Financial Creditor
V/s.
M/s. Neel Motors LLP
...Corporate Debtor

I.A. No. 233/2022

Mr. Mukesh Kumar Gupta
... Applicant/
Resolution Professional

Order delivered on 01.04.2022

Coram:

Hon'ble Shri H. V. Subba Rao, Member (Judicial)
Hon'ble Shri Chandra Bhan Singh, Member (Technical)

Appearance (through video conferencing):

For the Applicant: Ms. Sneha Nanandkar i/b. Adhita Advisors,
Advocate

ORDER

1. It is an application filed by the Applicant/ Resolution Professional, seeking liquidation of the Corporate Debtor namely (M/s. Neel Motors LLP) on the ground that no resolution plan has been received by him, hence this application under Section 33 (1) of the Insolvency and Bankruptcy Code, 2016, praying following reliefs:

a. "To allow present application;

- b. To initiate liquidation process of the Neel Motors LLP (Corporate Debtor) under Section 33 (1) and (2) of the Code;*
 - c. To appoint the applicant i.e. Mukesh Kumar Gupta as Liquidator under Section 34(1) of the Insolvency and Bankruptcy Code, 2016; and the remuneration/fee of liquidator should be as approved by the members of CoC/ Stakeholder Committee.”*
2. The Adjudicating Authority vide its order dated 04.08.2021 on a Petition filed by the Financial Creditor under Section 7 of the Code directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor namely M/s. Neel Motors LLP, wherein Mr. Mukesh Kumar Gupta, was appointed as Interim Resolution Professional (IRP). Thereafter, in the 1st Committee of Creditors (CoC) meeting held on 03.09.2021, Mr. Mukesh Kumar Gupta, was resolved to be appointed as Resolution Professional (RP).
3. It is further submitted that an advertisement, inviting Expression of Interest (EoI) in Form A was published on 12.08.2021 in “Financial Express” in (English) and “Loksatta” in Marathi.
4. The CoC in its 3rd meeting held on 28.10.2021 decided to appoint a Valuer. The RP accordingly appointed two registered valuers as required under Regulation 27 of the IBBI (IRP for Corporate Persons) Regulations, 2016 and the Information Memorandum was prepared as provided under Regulation 36(1) of the said regulation.
5. The Counsel for the Applicant submits that no Form G was published for inviting Expression of Interest.
6. The Counsel for Applicant states that the CoC members decided that the continuing with CIRP Process is not feasible, since the CIRP commencement date there are no fixed assets in the Corporate

debtor, the prospects of a resolution are remote and also the company has no current assets. As such, even the chances of recovery through debtors and other parties appear to be improper and continuing with the CIRP was unnecessarily increasing the CIRP costs.

7. Therefore, the CoC in the 6th CoC meeting held on 27.12.2021, it was informed in the meeting that there are no chance of revival of the Corporate debtor Company. The following Resolution was passed;

“Resolved that the consent of Committee of Creditor (CoC) be and is hereby accorded to liquidated the corporate debtor (Neel Motors LLP) under Section 33(2) of IBC, 2016.

Resolved further that the Resolution Professional be and is hereby authorised to file application and approach the adjudicating authorities, Hon’ble NCLT, Mumbai, to intimate the decision of the Committee of creditors with a request to pass an order of liquidation of corporate debtor in terms of Section 33(2) of IBC, 2019.

Resolved further in light of the consent given by the Resolution Professional Mr. Mukesh Kumar Gupta (IBBI Registration No. IBBI/IPA-001/IP-P00207/2017-2018/10407, & being eligible in terms of Regulation 3 of IBBI (Liquidation Process) Regulations, 2016, the appointment of Mr. Mukesh Kumar Gupta to act as liquidator of Neel Motors LLP in terms of Section 34(1) of the IBC 2016 and hereby approved, subject to the approval by the Adjudicating Authority in terms of section 34 of the IBC, 2016.

RESOLVED THAT the liquidator shall be entitled to a fees of Rs. 1 Lakh (Rupees one Lakh only), for rendering professional services as liquidator to be paid to Mr. Mukesh Kumar Gupta, be and is hereby approved.”

8. Hence, the CoC in its 6th meeting held on 27.12.2021, with 100% voting rights passed a resolution for liquidating the company. Accordingly, the Resolution Professional filed this application for liquidation of the Company as provided u/s. 33 of the Insolvency & Bankruptcy Code, 2016 (Code).
9. The Applicant/ Resolution Professional Mr. Mukesh Kumar Gupta, has agreed to act as liquidator to carry on the process of liquidation and given his consent to act as Liquidator.
10. Upon hearing the submissions of the Applicant and on the perusal of the Application and the documents enclosed therein it is found, the RP has complied with the procedure laid down under the Code; Regulations made thereunder. The reasons assigned in the petition with regards to taking the decision of liquidation of Corporate Debtor by COC appears to be convincing. On verification, we are of the considered view that this is a fit case to pass liquidation order under sub-section 1 of section 33 of the Code for liquidation in the absence of any resolution plan. Hence ordered;

ORDER

- a. The Interlocutory Application No. 233 of 2019 is hereby allowed.
- b. Mr. Mukesh Kumar Gupta, having Registration No. *IBBI/IPA-001/IP-P00207/2017-2018/10407*, herein is hereby appointed as 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 approved by the CoC as per below resolution:
“RESOLVED THAT the liquidator shall be entitled to a fees of Rs. 1 Lakh (Rupees one Lakh only), for rendering professional services as liquidator to be paid to Mr. Mukesh Kumar Gupta, be and is hereby approved.”
- 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 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.
- k. The Interlocutory Application No. 233 of 2022 is hereby allowed and disposed of.

Sd/-
CHANDRA BHAN SINGH
MEMBER (TECHNICAL)

Sd/-
H. V. SUBBA RAO
MEMBER (JUDICIAL)