



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

**I.A. No. 2271 of 2023**

**IN**

**C.P. (IB) 740/MB/2022**

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

**Mr. Prasad Dharap**

Resolution Professional of:

Sai Youths Agroproducts Private Limited

Having his office at:

47 Prasad, New Ramdaspath,

Nagpur, Maharashtra – 440 010.

E-mail Id: dharap65@rediffmail.com

**... Applicant/ Resolution  
Professional**

**In the matter of**

Sai Youths Agroproducts Private Limited

*(Under Section 10 of the Insolvency and Bankruptcy Code, 2016)*

Having its address at:

12, Aradhana Society,

Near Chintamani Nagari,

Nagpur, Maharashtra – 440 027.

**... Corporate Applicant**

**Order Pronounced on: 05.12.2024**

**Coram:**

Charanjeet Singh Gulati

Hon'ble Member (Technical)

Lakshmi Gurung

Hon'ble Member (Judicial)



**Appearances:**

For the Applicant/ Resolution Professional: Adv. Deepali Jaiswar i/b Adv.  
Maulik Choksi

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**Per: SHRI CHARANJEET SINGH GULATI, MEMBER (Technical)**

1. The present **I.A. No. 2271 of 2023** has been filed under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as '**Code**') by Mr. Prasad Dharap (hereinafter referred to as '**Applicant**'/ '**Resolution Professional**') seeking following reliefs in regards to Sai Agroproducts Private Limited (hereinafter referred to as '**Corporate Applicant**') as follows:
  - a) *To approve the liquidation of the Corporate Applicant in terms of Section 33(2) of the Code;*
  - b) *To direct the Applicant regarding treatment of the unutilized balance amount lying with the Applicant which was initially provided by the Corporate Applicant as per the directions of this Tribunal;*
  - c) *Pass such other or further orders, as may be deemed fit in accordance with the facts and circumstances of the case.*
  
2. The Corporate Applicant, Sai Youth Agroproducts Private Limited [CIN: U74999MH2015PTC262043] filed a **Company Petition No. 740/IBC/MB/2022** under Section 10 of the Code to initiate a Corporate Insolvency Resolution Process ('**CIRP**'), which was admitted by this Tribunal vide order dated 12.10.2022 ('**said Order**'/ '**Insolvency Commencement Date**').



3. The Corporate Applicant availed term loan from one Nagpur Nagarik Sahakari Bank Limited on 10.11.2015 for Rs. 1,78,00,000/-; Loan against Deposit for Rs. 4,75,000 on 23.11.2015; Cash Credit Limit of Rs. 80,00,000 in 2016 (which was later enhanced to Rs. 2,95,00,000/- in 2017) and a Term Loan (secured against immovable property) of Rs. 70,00,000/- (**'Facility'**) for its business of ginning and pressing mill of cotton. The Corporate Applicant defaulted towards the Facilities for an outstanding debt of Rs. 5,91,59,489 in the Financial Year 2021-2022 (**'said Debt'**). The said Debt was assigned to Omkara Asset Reconstruction Private Limited vide Assignment Agreement dated 21.03.2022.
4. The Applicant, CA Prasad Dharap, in pursuance of the said Order was appointed as an Interim Resolution Professional (**'IRP'**) by this Tribunal.
5. In furtherance to the said Order, the Applicant issued a Public Announcement in 'Form -A', as per Regulation 6 of the Insolvency and Bankruptcy Board of India (Corporate Insolvency Resolution Process) Regulations, 2016 (**'CIRP Regulations'**) on 21.10.2022. The Public Announcement was made in one English Language Newspaper (The Indian Express, Nagpur Edition) and in Marathi Language Newspaper (Lokasatta, Nagpur Edition), inviting the creditors of the Corporate Applicant to file their proof of claims.
6. The Applicant in pursuance of the Public Announcement, received claim from Omkara Asset Reconstruction Private Limited, 'Secured Financial Creditor'. Therefore, the Committee of Creditors (**'CoC'**) was constituted of sole Secured Financial Creditor. The CoC passed resolution to appoint the IRP as a Resolution Professional (**'RP'**), in the 1<sup>st</sup> CoC meeting held on 17.11.2022.



7. The Applicant thereafter published an Invitation of Expression of Interest (**'EoI'**) in Form-G as per the CIRP Regulations on 18.12.2022 in one English Language Newspaper (The Indian Express, Nagpur Edition) and Regional Language (Marathi) Newspaper (Loksatta, Nagpur Edition). The last date of submission of EoI was 02.01.2023. The Applicant received two EoIs, one from Nakshatra Corporate Advisors Limited and the other from Induram Industries Private Limited.
8. However, Nakshatra Corporate Advisors Limited was the sole Proposed Resolution Applicant (**'PRA'**) for submitting a Resolution Plan in favour of the Corporate Applicant. The Applicant in the 4<sup>th</sup> CoC Meeting dated 04.04.2023 stated that sole PRA failed to submit the Resolution Plan by 16.02.2023, and also within the additional period up till 26.02.2023 as granted by the CoC.
9. The Applicant brought to notice in the 4<sup>th</sup> CoC Meeting that a CIRP of a Corporate Debtor as per Section 12 of the Code was to be completed within 180 Days from the Insolvency Commencement Date, that is, 17.04.2023, and that in this circumstance on the instruction of the CoC the Applicant could statutorily seek an extension of 90 Days for completion of CIRP.
10. The representatives of the CoC in the 4<sup>th</sup> CoC Meeting upon considering the facts shared by the Applicant in point 8 and 9 above, decided to liquidate the Corporate Debtor as *no Resolution Applicant has submitted their Resolution Plan and as there is no other person interested in submitting a bid for the Corporate Debtor*, and to not proceed with the extension of CIRP thus, *reducing further expenditure on CIRP process*.
11. The Applicant states that an *Agenda Item no. C(1) ..To liquidate the Corporate Debtor* was put up before the CoC. The given agenda was approved with 100% of the votes to proceed with the liquidation of the



Corporate Debtor. The relevant extract of the Resolution is reproduced herein below:

*Resolved that the Corporate Debtor be liquidated.*

12. Accordingly, the present Interlocutory Application was filed on 24.04.2023 seeking Liquidation of the Corporate Applicant.
13. Thereafter, the Applicant states to have received an e-mail from the sole Financial Creditor on 03.10.2023 for withdrawing the liquidation application and intimating the receipt of offer from one Mr. Nandkishor S. Thakre to submit a Resolution Plan towards CIRP. This Tribunal vide order dated 04.10.2023 took notice of the development.
14. Accordingly, in the 5<sup>th</sup> CoC Meeting held on 06.10.2023, the CoC resolved with 100% of the votes to authorize the Applicant to file an application for withdrawal of liquidation and republish the Invitation of Expression of Interest (**'EoI'**) as prescribed under Form-G of the CIRP Regulations.
15. In pursuance of the resolutions passed at the 5<sup>th</sup> CoC Meeting, the Applicant re-published the EoI on 12.10.2023 in one English Language Newspaper (The Indian Express, Nagpur Edition) and other Regional Language (Marathi) Newspaper (Loksatta, Nagpur Edition). The Applicant also uploaded the re-published EoI on the website of Insolvency and Bankruptcy Board of India (**'IBBI'**). The last date of submission of EoI by the PRA was 27.10.2023.
16. An EoI was submitted by Mr. Nandkishor S. Thakre (**'PRA'**) via e-mail dated 03.10.2023. The PRA in view of that deposited Rs. 2,00,000/- as Earnest Money Deposit 'EMD', out of Rs. 5,00,000/- and requested to seek additional time for depositing the balance EMD. A list comprising details of PRA (Mr. Nandkishor S. Thakre) to the Corporate Debtor was



published by the Applicant on 03.11.2023, on a condition of depositing the balance EMD during the extended period of time.

17. The Applicant having received EoI from only one PRA, shared the list of PRA as per the provisions of the Code by e-mail dated 03.11.2023 and the last date for submission of objections to provisional list was 08.11.2023, for which no objections were received.
18. The Applicant states that in the 6<sup>th</sup> CoC Meeting held on 08.11.2023, the CoC resolved with 100% votes to approve the Request for Resolution Plan (**'RFRP'**) document prepared by the Applicant as per Regulation 36B of the CIRP Regulations, Evaluation Matrix as prescribed under Regulation 2(1)(ha) of CIRP Regulations and the expenses as incurred by the Resolution Professional be included in Insolvency Resolution Process Costs.
19. Since, the PRA failed to deposit the balance of EMD till 31.10.2023 and also during the extended period of time till 20.11.2023. The Applicant enquired with the PRA via telephone calls and e-mail which remained unanswered. The PRA has not fulfilled the criteria as specified in Form-G and was ineligible to be included in the final list of PRAs. The Applicant further states to have tried to resolve the corporate debtor and as no further EoI was submitted in regards to the CIRP (which has completed more than one year) suggested the CoC to consider liquidation of the corporate debtor.
20. The Applicant states that in the 7<sup>th</sup> CoC Meeting held on 12.12.2023, the CoC approved the given agenda as proposed by the Applicant with 100% of the votes to proceed with the liquidation of the Corporate Debtor. The relevant extract of the Resolution is reproduced herein below:

*“Resolved that the Corporate Debtor be liquidated.”*



21. The Applicant states that in the 8<sup>th</sup> CoC Meeting held on 26.12.2023, the CoC with 100% of the votes approved the appointment of liquidator of the Corporate Debtor, Mr. Sanjay Mahajan. The relevant extract of the Resolution is reproduced herein below:

*“Resolved that Mr. Sanjay Mahajan be appointed as liquidator for the Corporate Debtor at a monthly remuneration of Rs. 60,000 (excluding GST and out of pocket expenses).”*

22. Further, in the 8<sup>th</sup> CoC meeting, the CoC approved estimated liquidation cost as provided by the applicant that may be incurred during the liquidation process of the corporate debtor for a year from the liquidation commencement date. The details of which are reproduced as under:

<b>Sr. No.</b>	<b>Particulars</b>	<b>Amount (in Rupees)</b>
1.	Liquidator’s fees, including GST (70,800 x 12)	4,24,800
2.	Security expenses (51,920 x 12)	3,11,520
	Public Announcement charges (including Form B, Auction notice as a going concern, Auction notice for sale of Plant & Machinery)	50,000
4.	Legal Cost	70,000
5.	Valuer’s fees (including valuers for Securities & Financial Assets and Plant & Machinery)	70,000
	<b>Total</b>	<b>9,26,320</b>



23. The Applicant states that as per the order of this Tribunal, the Corporate Applicant was required to deposit an amount of Rs. 5,00,00/- as initial expense, towards CIRP cost out of which Rs. 1,62,648/- is expended and the balance of Rs. 3,37,352/- is available with the applicant.
24. This Bench is vested with the powers to pass an order of Liquidation of the Corporate Debtor. Since, no Resolution Plan was submitted and voted for by the CoC, therefore in the absence of any Resolution Plan on the table, and considering the resolution passed by the CoC to liquidate the Applicant Company, the order of liquidation shall be passed by this Adjudicating Authority under section 33 of the Code. The said Section is quoted below for the convenience and the ready reference:

*“(1) Where the Adjudicating Authority, —*

- a. before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or*
- b. rejects the resolution plan under Section 31 for the non-compliance of the requirements specified therein, it shall—*
- (i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;*
  - (ii) issue a public announcement stating that the corporate debtor is in liquidation; and*
  - (iii) require such order to be sent to the authority with which the corporate debtor is registered.*

*(2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors to liquidate the corporate*



*debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).”*

25. Given the facts and circumstances of the case and discussions hereinabove, this Bench is satisfied and is of the considered opinion that the present Interlocutory Application is in consonance with Section 33(2) of the Code. Accordingly, this Authority is left with no option except to pass an order for Liquidation of the Corporate Debtor Company in the manner laid down in Chapter III of the Code considering the fact there is no Resolution Plan for consideration and CoC does not foresee any possibility of getting Plans for the Corporate Debtor. Therefore, the **I.A. No. 2271 of 2023 in C.P. (IB) No. 740 of 2022** is ordered as follows:

### **ORDER**

- a) The Application be and the same is allowed. The Corporate Debtor, Sai Youths Agroproducts Private Limited, shall be liquidated in the manner as laid down in Chapter-III of the Code.
- b) As proposed by the CoC, we hereby appoint **Mr. Sanjay Mahajan**, having Registration No. **IBBI/IPA-001/IP-P-02122/2021-2022/13523** having e-mail id sanjayrmahajan@hotmail.com, as the Liquidator to conduct liquidation process of **“Sai Youth Agroproducts Private Limited”** as provided under Section 34(4) of the Code. The proposed Liquidator has filed his Written Consent dated 22.07.2024 under Section 34 of the Code. The Written Consent is accompanied by Authorization for Assignment (‘AFA’) dated 06.03.2024 which is valid up to 30.06.2025.
- c) That the Liquidator for conduct of the Liquidation proceedings would be entitled to the expenses, legal costs and fees incurred



during the liquidation process, and all out-of-pocket expenses of the liquidator is to be paid extra and the fee to the liquidator shall be paid as provided under Regulation 4(2)(b) of the IBBI (Liquidation Process) Regulations, 2016 or as approved in 8<sup>th</sup> CoC meeting held on 26.12.2023.

- d) The Moratorium declared under Section 14 of the IBC 2016 shall cease to operate here from. A fresh moratorium shall commence under Section 33(5) of IBC.
- e) This order shall be deemed to be a notice of discharge to the officers, employees and the workmen of the Corporate Debtor as per Section 33(7) of the IBC.
- f) Liquidator shall issue public announcement stating that 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 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.
- h) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- i) 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.



- j) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- k) 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.
- l) The Liquidator shall submit Progress Reports as per Regulation 15 of the IBBI (Liquidation Process) Regulations, 2016, and shall apprise the Bench about the Liquidation Process of the Corporate Debtor.
- m) Registry shall furnish a copy of this Order to:
- i. Insolvency and Bankruptcy Board of India, New Delhi;
  - ii. Regional Director (Western Region), Ministry of Corporate Affairs;
  - iii. Registrar of Companies & Official Liquidator, Maharashtra;
  - iv. Resolution Professional, Mr. Prasad Dharap;
  - v. Liquidator, Mr. Sanjay Mahajan.

26. Accordingly, this Application, stands disposed of as **Allowed**.

27. Ordered Accordingly.

Sd/-

**CHARANJEET SINGH GULATI**  
**(MEMBER TECHNICAL)**

Akshita, L.R.A.

Sd/-

**LAKSHMI GURUNG**  
**(MEMBER JUDICIAL)**