

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

IA No. 1433/2022

Under Section 33(1) of Insolvency &
Bankruptcy Code, 2016

Mr. Mukesh Jain,

Resolution Professional/
...Applicant

In the matter of

CP (IB) No.1075/MB/C-IV/2020

Bathla Teletech Private Limited

...Operational Creditor

Vs.

**Perfect Mobile & Communication
Private Limited**

...Corporate Debtor

Order Pronounced on: 24.08.2022

Coram:

Mr. Manoj Kumar Dubey
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant/RP

: Mr. Manoj Kumar Mishra,
Advocate

Per: Kishore Vemulapalli, Member (Judicial)

1. The application is filed by Mr. Mukesh Jain, Applicant/ Resolution Professional, seeking liquidation of Perfect Mobile & Communication 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 07.01.2022 in C.P.(IB)1075(MB)/2020 admitted the petition under Section 9 of the Code, filed by Bathla Teletech Private Limited (hereinafter referred to as the “Operational Creditor”) and Corporate Insolvency Resolution Process (CIRP) was initiated against Perfect Mobile Communication Private Limited, (hereinafter called as the “Corporate Debtor”). The Applicant herein was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor by this Tribunal vide this Order.

 - B. The Applicant Submits that, the IRP had made Public announcements on 13.01.2022 in two daily leading newspapers *viz* Financial Express (English Newspaper) and Tarun Bharat (Marathi) inviting the claims from the Creditors of the Corporate Debtor as per the Regulation 6(3) of the Insolvency and Bankruptcy Board of India

(Insolvency Regulation Process for Corporate Persons)
Regulations, 2016.

- C. The applicant submits that in response to the Publications, he received two claims i.e. (1) Deputy Commissioner of State Tax, Mumbai and (2) Commercial Tax Officer, DGSTO-1 Bengaluru. On the basis of the claims received, the COC was formed and the report certifying the same was filed.
- D. In compliance to the provision of Section 22(2) of the Code, the COC appoints/confirms the Applicant as Resolution Professional (RP) in its 1st CoC meeting held on 11.02.2022. The following resolution unanimously passed in 1st CoC meeting reproduced hereunder.

“Resolved that pursuant to section 22(2) Insolvency and Bankruptcy Code, 2016 and other applicable provisions, if any, of the Insolvency and Bankruptcy Code, 2016 and in accordance with rules and regulations made thereunder, approval of the members of the committee of creditors be is hereby accorded for appointment of Mukesh Jain (Regn. No. IBBI/IPA-001/IP-P01236/2018-19/11944) as the Resolution Professional in the matter of Corporate Insolvency Resolution Process of Perfect Mobile and Communications Private Limited.”

- E. After the first CoC meeting the RP again received a claim from the Dy. Commissioner of Income Tax holding 0.06% voting share in the meeting.
- F. In compliance of Regulation 36A of IBBI Corporate Insolvency Resolution Process Regulations, 2016, the Applicant subsequently published Form-G (Expression of Interest) on 22.03.2022 in two daily leading newspapers *viz* “Financial Express” (English Newspaper) and “Tarun Bharat” (Marathi) having circulation at Mumbai, to get prospective Resolution Applicants.
- G. However, no prospective Resolution Applicants have submitted their Expression of Interest to the Applicant/RP before the last date of submission which was on 25.05.2022.
- H. The Corporate Debtor does not have any asset in the form of immovable asset, which has been the primary factor of the Expression of Interest not coming forward. However, the applicant has noted that major asset of the company is in the form of Short Term Loans and Advances to the extent of Rs.2,03,65,325/-. The applicant has sent the notices to parties and no reply has been received till date. The Applicant can therefore take appropriate legal action with respect to the assets. The applicant has also appointed a transaction-based auditor to know the preferential, fraudulent or

undervalued transaction but has not received any report from him till date. The Applicant in its 3rd CoC meeting held on 19.04.2022 for considering the future course of action, received an e-mail from one Mr. Amrit Kumar Agarwal, who had requested for waiver of initial deposit for submission of expression of deposit. The said claim for waiver was rejected by the CoC and passed the Resolution for liquidation of Corporate Debtor. The copy of minutes of 3rd CoC meeting is annexed as Annexure-4 (Page 37-40) of the Application. The Balance Sheet of the Corporate Debtor is annexed as Annexure 7 (Page 45-46 of the Application).

- I. In the 3rd COC meeting held on 19.04.2022, the Committee of Creditors (CoC) with 99.50% voting resolved for liquidation of the Corporate Debtor as a non-going concern and also resolved to appoint the Applicant as liquidator to complete the liquidation process.

“RESOLVED FURTHER THAT the resolution professional, Mr. Mukesh Kumar Jain be and is hereby appointed as Liquidator of Corporate Debtor M/s. Perfect Mobile and Communications Private Limited, at a free prescribed under Regulation 4 (2) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 plus applicable taxes and out of pocket expenses. The resolution professional is hereby authorized to submit a application, through local Advocate, with Hon’ble NCLT, Mumbai for approval along with its consent to act as a liquidator as per provisions of the Code.”

The said resolution was passed with 99.50% majority of the COC Members which is annexed at Page 40 of the Application.

ORDER

- a. IA No. 1417/2022 filed by the Applicant for the Liquidation of 'Perfect Mobile & Communication Private Limited' is allowed
- b. Mr. Mukesh Jain, Resolution Professional having Registration No. IBBI/IPA-001/IP-P01236/2018-19/11944 as liquidator to conduct Liquidation process of M/s Perfect Mobile & Communication Private Limited is hereby appointed as the Liquidator in the matter as provided under Section 34(1) of the Code.
- c. That the Liquidator would be entitled for the fees to conduct the Liquidation Proceedings as decided in Third COC meeting.
- 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. 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 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.

3. With the above directions, the IA No. 1433/2022 filed u/s 33(1) by the applicant is hereby **Allowed and Disposed of**.
4. Record be consigned to record room.

Sd/-
MANOJ KUMAR DUBEY
Member (Technical)
24.08.2022

Sd/-
KISHORE VEMULAPALLI
Member (Judicial)