THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

I.A. 3362 OF 2023

Under Section 33 of Insolvency & Bankruptcy Code, 2016

Mr. Nitin Om Kothari

Resolution Professional/

…Applicant

In the matter of

C.P.(IB) No. 506/MB/2021

Shirpur Gold Refinery Limited

Operational Creditor

Vs.

Balmukh Goldjewel & Multitrading Private Limited

Corporate Debtor

Order delivered on: 10.11.2023

***Coram**:*

Ms. Madhu Sinha	**Mr. Kishore Vemulapalli**
Hon'ble Member (Technical)	Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant/RP : Mr. Ajinkya Kurudkar, Advocate

ORDER

Per: Madhu Sinha, Member (Technical)

1. The above application I.A. No. 3362/2023 is filed by Mr. Nitin Om Kothari, xseeking liquidation of Balmukh Goldjewel &

Multitrading Private Limited (hereinafter referred to as the "Corporate Debtor") under Section 33 (1) of the Insolvency and Code, 2016 (hereinafter called as "the Code").

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

a. The Applicant mentions that this Tribunal vide its order dated 20.09.2022 in Company Petition No. 506/IBC/MB/2021 admitted the petition under Section 9 of the Code, filed by Shirpur Gold Refinery Limited (hereinafter referred to as the "Operational Creditor") and Corporate Insolvency Resolution Process (hereinafter referred to as the "CIRP") was initiated against the Corporate Debtor. Mr. Sandeep Jawaharlal Singhal, was appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal. Thereafter, vide order dated 28.11.2022, this Bench replaced the IRP with Applicant.

b. Ld. Counsel for the Applicant submits that pursuant to the publication of FORM-G on 14.11.2022, the Applicant informed that 3 Expression of Interest (EOIs) was received. On 4th CoC meeting, the claim received from the Financial Creditor i.e. Gajank Telecommunications & IT Solutions Private Limited was discussed. Thereafter, the RP verified and accepted the claim as Financial Creditor and reconstituted the CoC.

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c. As the last date of submission of Resolution Plan was 10.02.2023, one PRAs Mr. Anuj Goyal had asked further time for submitting the Resolution plan and the same was granted.

d. In the 5th CoC meeting, the Member of CoC with an intention to achieve value maximization in its commercial wisdom, the Form G was again published on 19.12.2022. Pursuant to publication of fresh Form-G, Mr. Anuj Goyal had submitted the EOI but had not submitted any Resolution Plan.

e. In the 8th CoC meeting conducted on 25.07.2023, the Applicant mentioned that no resolution plan was received. The member of CoC noted the same and opined that since no resolution plan has received and statutory period of CIRP is also coming to end including the extension, CoC with 100% voting opted for liquidation of the Corporate Debtor. The Applicant also expressed his interest and willingness to be appointed as the Liquidator for carrying out the liquidation process.

3. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, this bench is of the opinion that the Corporate Debtor is required to be liquidated in the manner as laid down in the IBC 2016.

ORDER

4. The above I.A. No. 3622/2023 is allowed and the Corporate Debtor "**Balmukh Goldjewel & Multitrading Private Limited"** is ordered

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to be liquidated as a going concern for the first attempt and if it fails, then sale by other methods should be tried.

a. In view of letter Ref. No. Liq-12011/214/2023-IBBI/840, received from Insolvency Bankruptcy Board of India addressed to Secretary NCLT and in view of Section 34(4)(b) of the Code, this Bench appoints Mr. Rajesh Ramesh Kamath, having Registration No. IBBI/IPA-001/IP-P01606/20I9-2020/12481, 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 the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
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. 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

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Liquidator to send this order to the ROC under which this Company has been registered.

f. 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.

g. 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.

h. 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.

i. The liquidator shall be at liberty to pursue pending the Interlocutory Application pertaining to avoidance transactions, if any.

With the above directions, the I.A. No.3362/2023 filed u/s 33 (1) by the applicant is hereby allowed and disposed of.

Sd/-	**Sd/-**
MADHU SINHA	**KISHORE VEMULAPALLI**
Member (Technical)	Member (Judicial)

/NP/