

IN THE NATIONAL COMPANY LAW TRIBUNAL

INDORE BENCH

COURT NO. 1

ITEM No.203

IA/93(MP)2023

in

C.P.(IB)/37(MP)2021

Proceedings under Sections 33(1), 33(2) & 34(1) of IBC, 2016

IN THE MATTER OF:

Ishwar Lal Kalantri, RP of M/s Sagar Automobiles Pvt Ltd**Applicant**

V/s

Ghulam Gaus Khan Shirani & Ors**Respondents**

Order delivered on 28/07/2023

Coram:

Mahendra Khandelwal, Hon'ble Member(J)

Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant :

For the Respondents :

ORDER

IA/93(MP)2023

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

-SD-

**KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)**

-SD-

**MAHENDRA KHANDELWAL
MEMBER (JUDICIAL)**

A. Bhadauria / Stenographer

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH

IA/93 (MP)2023
IN
CP(IB)/37(MP)2021

(Application under section 33 of the Insolvency and Bankruptcy Code, 2016)

Through:

Mr. Ishwar Lal Kalantri

Resolution Professional of:
M/s Sagar Automobiles Private Limited
Address: FH-183, Scheme No.54, Vijay Nagar,
Indore, Madhya Pradesh- 452010

.....Applicant

Versus

Ghulam Gaus Khan Shirani

Suspended Director
M/s Sagar Automobiles Private Limited
Address: 29, Shiranipura,
Ratlam – 457 001, Madhya Pradesh

...Suspended Director/Respondent No. 1

Yahaya Khan

D/o Rafique Khan
Suspended Director
M/s Sagar Automobiles Private Limited
Address: 29, Shiranipura,
Ratlam – 457 001, Madhya Pradesh

... Suspended Director/Respondent No. 2

Mahindra and Mahindra Financial Services Limited

Address: Gateway Building,
Apollo Bunder, Mumbai - 400001

...Financial Creditor/Respondent No. 3

Punjab National Bank

Address: Circle Sastra Branch
20, Sneh Nagar, Indore,
Madhya Pradesh- 452001

...Financial Creditor/Respondent No. 4

In the matter of:

(Application under section 10 of the Insolvency and Bankruptcy Code, 2016)

M/s Sagar Automobiles Private Limited

.....Corporate Debtor

Order Reserved On: 07.07.2023

Order Pronounced On: 28
.07.2023

**Coram: Mahendra Khandelwal, Member (J)
Kaushalendra Kumar Singh, Member (T)**

Appearance:

For the Applicant: Ld. PCA Ms. Ayushi Patidar (physical)
Ld. Adv. Mr. Rajat Lohia (online)
Ld. Proxy Adv. Ms. Rini Kothari (physical)
For the Respondent: Ld. PCS Mr. Pratik Tripathi (Suspended Mangement)

ORDER

1. This application is filed by Mr. Ishwar Lal Kalantri, resolution professional of M/s Sagar Automobiles Private Limited (Corporate Debtor) under section 33(1), 33(2) & 34(1) of the Insolvency and Bankruptcy Code, 2016 (the Code) for initiating the liquidation process of the corporate debtor.

2. The submissions made by the applicant in its application are summarized hereunder:

(i) The corporate applicant filed an application under section 10 of the Code for initiating Corporate Insolvency Resolution Process (CIRP) for M/s Sagar Automobiles Private Limited, which was admitted by this Adjudicating Authority vide order dated 25.08.2022. Applicant herein was appointed as the interim resolution professional (IRP) of the corporate debtor. The IRP constituted the COC having two members i.e., M/s Mahindra and Mahindra Financial Services Limited having 58.05% voting rights, and M/s Punjab National Bank having 41.95% voting rights. The COC in its 1st meeting dated 27.09.2022 resolved to appoint the IRP as a resolution professional (RP).

(ii) The corporate debtor was carrying out the business of selling vehicles and was an authorized dealer of all Mahindra vehicles. Due to financial difficulties, the business of corporate debtor was stopped in the year 2017. There are no movable/immovable assets in the name of

the corporate debtor and under the possession of the resolution professional. In such circumstances, it is difficult to resolve the corporate debtor and identify prospective resolution applicants.

(iii) The COC in its 4th meeting dated 07.02.2023, with 100% voting decided for liquidation of the Corporate Debtor. The said decision was taken by the COC in terms of section 33(2) of the Code, in order to avoid unnecessary delay.

(iv) The COC in the said meeting, in accordance with Regulation 39B and 39D of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016, resolved with 100% votes liquidation cost of Rs 10,30,000/- including liquidators fee of Rs 2,00,000/- for the entire liquidation process. Further, in case of a shortfall in meeting the liquidation cost the same will be borne by the COC members. The COC also resolved to appoint the applicant herein as a liquidator. The proposed liquidator has provided his written consent and the same is placed on record.

3. We heard the learned resolution professional and perused the relevant material available on record. It is noted that the corporate debtor was admitted into CIRP vide order dated 25.08.2022. Form-G was published by the applicant dated 12.01.2023 but, did not receive any EOI. Further, the COC in its 4th meeting dated 07.02.2023 has passed a resolution as regards liquidation cost. The shortfall, if any, in meeting out liquidation cost would be borne by COC members. Further, resolutions in accordance with Regulation 39B and 39D are also passed in the said meeting. As such the application deserved to be allowed. We proceed to pass the following order:

i. The corporate debtor M/s Sagar Automobiles Private Limited shall be put into liquidation in terms of the provisions of section 33(2) of the Code r.w. Regulations made thereunder which shall be effective from the date of this order. Accordingly, we allow IA/93(MP)2023.

ii. The moratorium declared under section 14 of the Code shall cease to have effect from the date of the order of the liquidation.

- iii. As per section 34(1) of the Code, Mr. Ishwar Lal Kalantri, having registration no. IBBI/PA-001/IP-P01448/2018-19/12439, is hereby appointed as a liquidator of the corporate debtor, M/s Sagar Automobiles Private Limited, who shall complete the liquidation process as per the provisions of the Code r.w. Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- iv. All the powers of the board of directors, key managerial persons, and the partners of the corporate debtor, as the case may be, hereafter cease to exist. All these powers henceforth vest with the liquidator.
- v. The personnel of the corporate debtor are directed to extend all cooperation to the liquidator as required by him in managing the liquidation process of the corporate debtor.
- vi. The liquidator will charge fees for the conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and the same shall be paid to the liquidator from the proceeds of the liquidation estate under section 53 of the Code.
- vii. vii. Once the liquidation process is initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor. The liquidator has a liberty to institute the suit and other legal proceeding on behalf of the Corporate Debtor with the prior approval of this Adjudicating Authority, as provided in sub section (5) of section 33 of the IB Code.
- viii. This liquidation order shall be deemed to be 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.
- ix. This Adjudicating Authority directs the liquidator to issue a public announcement stating that the corporate debtor is in liquidation. The liquidator will also serve a copy of this order to the various Government Departments such as Income Tax, GST,

VAT etc, who are likely to have any claim upon the Corporate Debtor so that the authorities concerned are informed of the liquidation order timely. The liquidator will also provide a copy of this order to the trade unions/employee associations of the Corporate Debtor so that the workman/employees could also be informed of this liquidation order through their association.

x. The Registry is directed to communicate this order to the concerned Registrar of the Companies, registered Office of the Corporate Debtor, and the Liquidator by speed-post within one week from the date of this order.

4. Accordingly, IA/93(MP)2023 in CP(IB)/37(MP)2021 is disposed of.

-SD-
Kaushalendra Kumar Singh
Member (Technical)

-SD-
Mahendra Khandelwal
Member (Judicial)

Surbhi/LRA