

**NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH**  
**COURT III**

18. I.A. 2641/2021  
M.A. 3668/2019  
IN  
C.P.(IB)-4065(MB)/2018

CORAM: SHRI H. V. SUBBA RAO, MEMBER (J)  
SMT ANURADHA SANJAY BHATIA, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL  
COMPANY LAW TRIBUNAL ON **16.11.2022**

NAME OF THE PARTIES: Dena Bank

V/s.

Jogma Laminates Industry Pvt Ltd..

SECTION 7 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

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**ORDER**

**I.A. 2641/2021**

Ms. Kartik Gantha, counsel appearing for the Applicant is present through virtual hearing and sought oral permission to withdraw the above application.

Accordingly, the above Application is **disposed of as withdrawn.**

**M.A. 3668/2019**

Mr. Rohit Vora, Resolution Professional present in person.

The above Application is filed by the Resolution Professional for liquidation of the Corporate Debtor under Section 33(3) of the Code.

Heard the Resolution Professional and the above Application is **allowed.**

Detail order would follow:

Sd/-  
ANURADHA SANJAY BHATIA  
Member (Technical)  
/RKS/

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

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

**M.A. 3668 OF 2019**

**IN**

**CP/IB/4065/MB/2018**

Under Section 33 of Insolvency &  
Bankruptcy Code, 2016

Filed by  
**Mr. Rohit Vora**

Resolution Professional of:  
Jogma Laminates Industry Private  
Limited.

**...Applicant**

Vs.

Religare Finvest Limited and  
Others. **...Respondents.**

In the matter of

Dena Bank Ltd. **...Petitioner**

Versus

Jogma Laminates Industry Private  
Limited.

**...Corporate Debtor.**

**Order dated: 16.11.2022**

**Coram:**

Hon'ble Shri H.V. Subba Rao, Member (Judicial)  
Hon'ble SMT. Anuradha Sanjay Bhatia, Member (Technical)

**Appearance:**

**For the Applicant:** Mr. Rohit Vora, Resolution Professional

**For the Respondent:** Counsel Mr. Nausher Kohli a/w Advocate Ms.  
Vatsala Pant and Adv. Ms. Nasrin Shaikh i/b  
Indus Law

**Per- H.V. SUBBA RAO, MEMBER (J)**

1. The above application I.A. No. 3668/2019 is filed by Resolution Professional, Mr. Rohit Vora seeking liquidation of Jogma Laminates Industry Private Limited (hereinafter referred as Corporate Debtor) under Section 33, 34, & 35 r/w 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”) and Rule 11 of The National Company Law Tribunal Rules, 2016 (hereinafter called as “the Rules”), praying for following reliefs:

- a. *That this Hon’ble Tribunal may be pleased to liquidate this Company and pass order under section 33 read with section 34 with all powers and duties under Section 35 and the Applicant being the Resolution Professional may be appointed as liquidator or any other fit and appropriate person as may be deemed fit by the tribunal may be appointed as the liquidator.*
- b. *That this Hon’ble Tribunal may be pleased to issue order /directions to liquidate the Company and the Respondents be directed to release the amount of Resolution Professional fees and expenses incurred after 31<sup>st</sup> August, 2019 being Rs. 12,63393.52 till 1<sup>st</sup> November 2019 with a further direction to make payment till the term of the applicant continues.*
- c. *That this Hon’ble Tribunal may be pleased to issue orders/directions for the cost for the present Misc. Application being Rs. 1,50,000/- (Rs. One Lakh Fifty Thousand) be also directed to be paid over and above the amount at prayer (a) above.*
- d. *That this Hon’ble Tribunal may be pleased to issue appropriate directions and / or orders to the agreed by them to be paid to the Resolution Professional on /before expiry of*

*two weeks from the date of the order, i.e. more particularly the amount set out at prayer clause (b) and (c) above.*

- e. That this Hon'ble Tribunal may be pleased to issue appropriate directions and/or orders to the Respondents in accordance with provisions of the IBC code;*
- f. That this Hon'ble Tribunal may be pleased to pass such further and other orders as this Hon'ble Tribunal may deem fit and proper in view of the facts and circumstances of the case.*
- g. That this Hon'ble Tribunal may be pleased to pass any orders/directions as deem fit and necessary by this Hon'ble Tribunal in the interest of justice and equity &*
- h. Costs of this Misc. Application be provided for.*

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

- A. The Applicant mentions that this Tribunal vide its order dated 25.04.2019 in Company Petition No. 4065/IBC/MB/2018 admitted the petition under Section 7 of the Code, filed by Dena Bank (hereinafter referred to as the "Financial Creditor") and Corporate Insolvency Resolution Process (hereinafter referred to as the "CIRP") was initiated against the Corporate Debtor. Mr. Rohit Vora was appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal.
- B. The applicant mentioned that he has held various COC meetings on the following occasions:
  - i. 24.05.2019
  - ii. 14.06.2019
  - iii. 18.07.2019
  - iv. 26.08.2019
  - v. 17.10.2019

- C. On 25.05.2019, the 1<sup>st</sup> meeting of the Committee of Creditors (hereinafter referred to as the “CoC”) took place wherein the Applicant was appointed as the RP of the Corporate Debtor by the CoC.
- D. The Applicant further states that in the 4<sup>th</sup> CoC meeting held on 26.08.2019 and it was proposed to approve for initiation of liquidation process and for appointment of liquidator, the COC declined for extension of time.
- E. The applicant further submits that the COC has declined to extend time, although requested. The request was made in terms of Sub-section (2) of the Section 12 of the Code. In view of the above, the applicant being Resolution Professional is left with no alternative and has not been able to perform his duties. The applicant further states and submits that in view of sub-section (1) of section 12 of the period of 180 days came to an end on 23.10.2019. Further, in view of clause ‘a’ of sub-section (1) of Section 33, the period specified in sub-section (1) for resolution process having come to an end and no resolution plan could be prepared due to complete non co-operation of COC led by Respondent No.1 i.e. Religare Finvest Limited. The relevant para of minutes of meeting of committee of creditors as stated below for reference:

**TO APPROVE INITIATION OF LIQUIDATION PROCESS**

*The chairman apprised the committee of the provisions of the code and regulations made thereunder in so far it relates to liquidation. The chairman informed that initiation of liquidation process is prerogative of the COC and can be initiated at any time before the confirmation of the resolution plan.*

*The chairman informed that since the committee has so far not approved issue of Form G and Invitation of Expression of Interest despite the Resolution Professional seeking approval, no resolution plan has been received, and in such case, the committee can initiate liquidation of Corporate Debtor at their discretion. The Chairman requested the committee to explore and evaluate in principle interests received for resolution of the corporate debtor, as mentioned in third COC meeting, before proceeding ahead on liquidation.*

*The committee after deliberation decided to continue with its decision to go for liquidation of Corporate Debtor. The Chairman informed the Committee of the provisions of Section 34 of the Code pertaining to appointment of Liquidator, i.e. Resolution Professional to continue to act as the liquidator of the Corporate Debtor, subject to his consent to act as liquidator, as unless replaced by the Adjudicating Authority.*

*The chairman offered, in event of COC deciding to proceed with liquidation as resolution strategy, to continue as the liquidator of the Corporate Debtor on such fees as may be stipulated in IBBI (Liquidation Process) Regulations, 2016. The committee after deliberation decided to first file a petition for effective change of the Resolution Professional with NCLT and then initiate liquidation proceedings to effect appointment of Liquidator of their choice.*

*The Committee also directed suspension of ongoing statutory audit process and other activities linked to corporate insolvency resolution process, but directed to*

*continue with the valuation exercise keeping in perspective compliance with provisions of IBBI (Liquidation Process) Regulations, 2016.*

*Accordingly, the agenda item was deferred and not subject to voting.*

### **FINDING**

1. Heard Mr. Rohit Vora, Resolution Professional in person and Mr. Nausher Kohli, counsel appearing for the Religare Finvest Limited who is holding majority percentage voting in the COC. The learned counsel appearing for the Religare Finvest Limited reported no objection for allowing the above M.A. and passing an order of liquidation of the Corporate Debtor.
2. As stated above, the above application is filed by the Resolution Professional, Mr. Rohit Vora praying for an order of liquidation of the Corporate Debtor without backed by any resolution passed by the COC to that effect. This bench notice that there is a deadlock in the CIRP process due to serious misunderstanding between the RP and the COC. The misunderstanding reached the stage of refusing payment of RP's fees for which the RP was forced to file an application bearing I.A. 3399/2019 which was disposed of by this Tribunal vide its order dated 10.11.2022 directing the COC to pay his agreed fee. The COC in spite of passing resolution to replace the RP way back in 3<sup>rd</sup> COC meeting dated 18.07.2019, did not move any application so far for change of RP.
3. Both the RP as well as COC are making allegations against each other running into number of pages in the above I.A. as

well as through the replies which are not germane for deciding the above application and therefore this tribunal is not inclined to deal with them. It is the contention of the Resolution Professional that the above Corporate Debtor Company is viable and a resolution is possible but however surprisingly RP filed the above Application for liquidation.

4. Be that as it may, it is an admitted fact that the CIRP order was passed by this Tribunal on 25.04.2019 and the process did not move even an inch ahead. As stated above, the majority of COC members i.e. Religare Finvest Limited reported no objection for allowing the above Application. It is appropriate to mention here that the total maximum period provided under the code for completion of CIRP is 330 days including the time spent in the litigation. However, in the present case no resolution has taken place due to the tussle between the RP and the COC members even after a lapse of more than 3 and half years.
5. Under these circumstances, this Bench has no option except to pass an order of liquidation by invoking its power under Section 33(i) of the Code. Accordingly, this bench allows the above M.A. 3668/2019 and pass the following:

**ORDER**

1. The above M.A. 3668/2019 is allowed and the Corporate Debtor Jogma Laminates Industry Private Limited is ordered to be liquidated.
  - a. Since the above application is not filed by the COC by nominating the name of any liquidator, this Bench invoking its power hereby appoints Mr. Rajas Shreeram Bodas having Registration No. IBBI/IPA-002/IP-N-01200/2021-2022/14010,

- (email ID. [Rajasbodas1@gmail.com](mailto:Rajasbodas1@gmail.com)) (Mobile No. 9371733388) from panel of liquidator furnished by the IBBI 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 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 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. Registry is directed to communicate this order to the Liquidator immediately.

With the above directions, this application i.e. MA. 3688 of 2019 is hereby allowed and disposed of.

**Sd/-**  
**Anuradha Sanjay Bhatia**  
**MEMBER (TECHNICAL)**

**Sd/-**  
**H.V. Subba Rao**  
**MEMBER (JUDICIAL)**