THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

IA No. 2118/2020
Under Section 33(1) of Insolvency & Bankruptcy Code, 2016

Mr. Manoj Mainkar
Coop. HSG.SOCY Ltd., Sant Janabai Road, Near, Greater Mumbai Bank, Vile Parle East, Mumbai Suburban, Maharashtra,400057

Interim Resolution Professional/
…Applicant

In the matter of
CP (IB) No.3730/MB/C-IV/2019
Swastik Auto Works
A sole proprietorship concern represented by its proprietor, Mr. Sanjay Manjrekar

Operational Creditor

Vs.

Pramukh Car Riders Limited

Corporate Debtor

Order delivered on: 20.04.2022

Coram:

Mr. Rajesh Sharma	Mr. Kishore Vemulapalli
Hon'ble Member (Technical)	Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant/RP	:	Ms. Abdullah Quereshi, Advocate & Mr. Manoj Mainkar, RP present.

ORDER

Per: Rajesh Sharma, Member (Technical)

1. The above application is filed by Mr. Manoj Mainkar Applicant/ Resolution Professional, seeking liquidation of Pramukh Car Riders 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 13.03.2020 in Company Petition No. 3730/2019 admitted the petition under Section 9 of the Code, filed by Swastik Auto Works (hereinafter referred to as the "Operational Creditor") and Corporate Insolvency Resolution Process (CIRP) was initiated against Pramukh Car Riders 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 through Form G dated 03.08.2020 in two Local newspapers namely Financial Express (English Newspaper) and

Navshakti (Regional language) 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 the 1st COC meeting dated 31.08.2020 in which a detailed discussion on the continuation of the applicant as RP of the Corporate Debtor and the same was put for consideration vide e-voting.

D. Accordingly, in the Applicant issued notice dated 10.09.2020 for calling of 2nd COC meeting laying down various items in agenda. On 11.09.2020 reply to the said notice was received from on of the members of the COC, Bank of Baroda, requesting for early liquidation of the Corporate Debtor in its Agenda.

E. In the 2nd meeting held on 16.09.2020 the Applicant requested the COC members to abide with the process of CIRP and publish expression of interest as per the timelines specified under the Regulation 40A of the CIRP Regulations. The COC members unanimously agreed and decided in their best commercial wisdom, to go for early Liquidation.

> *"RESOLVED THAT pursuant to section 33, sub section (2) f IBC,2016 and other applicable provisions, if any, of IBBI (Liquidation Process) Regulations,2016, the Committee of Creditors hereby decides that Pramukh Car Riders Limited under CIRP be liquidated.*

RESOLVD FURTHER THAT the Committee of Creditors hereby directs Mr. Manoj Mainkar, IRP to intimate the Adjudicating Authority the decision of the COC to Liquidate the Corporate Debtor."

The provision of section 33(2) of IBC,2016 states that: -

(*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 1[approved by not less than sixty-six per cent. of the voting share] 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).*

[Explanation. – For the purpose of this sub-section, it is hereby declared that the committee of creditors may take the decision to liquidate the corporate debtor, any time after its constitution under sub-section (1) of section 21 and before the confirmation of the resolution plan, including at any time before the preparation of the information memorandum.]

The resolution was passed with 98.05% majority of the COC members which is more than the requisite percentage that is 66% of the voting as prescribed u/s 33(2) of IBC.

F. The Applicant submits that, the 3rd COC meeting held on 20.10.2020 has decided unanimously and resolved to propose Mr. Rajkumar Mahto, Resolution Professional having Registration No. IBBI/IPA-002/IP-N00723/2018-19/12209 as Liquidator to conduct Liquidation process of Pramukh Car Riders Limited and accordingly following resolution was passed:

> *"RESOLVED THAT in continuation to the resolution passed for the Pramukh Car Riders Limited and in pursuance with section 34 of the IBC Code,2016 Mr. Rajkumar Mahto, Resolution Professional having Registration No. IBBI/IPA-002/IP-N00723/2018-19/12209 be and is hereby appointed to act as the liquidator of the Corporate Debtor, in the event where order for Liquidation is passed by the Adjudication Authority under section 33 of IBC,2016."*

The said resolution was passed with 98.05% majority of the COC Members.

ORDER

a. IA No. 2118/2020 filed by the Applicant for the Liquidation of Pramukh Car Riders Limited is allowed

b. Mr. Rajkumar Mahto, Resolution Professional having Registration No. IBBI/IPA-002/IP-N00723/2018-19/12209 as liquidator to conduct Liquidation process of Pramukh Car Riders 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 to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016 to conduct the liquidation proceedings.

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. With the above directions, the IA No. 2118/2020 filed u/s33(1) by the applicant is hereby Allowed and Disposed of.

Sd/-

KISHORE VEMULAPALLI
Member (Judicial)

Sd/-

RAJESH SHARMA
Member (Technical)

20.04.2022