



S.No.1

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH – 1  
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON  
28-06-2023 AT 10:30 AM**

**IA(IBC) 968 & 1025/2023 in CP(IB) No.771/9/HDB/2019**  
u/s. 9 of IBC 2016

**IN THE MATTER OF:**

Manish Fashionworld Pvt Ltd

**...Operational Creditor**

**VS**

Maqdoom Moghny Enterprises Pvt Ltd

**...Corporate Debtor**

**C O R A M:-**

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)  
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

**ORDER**

**IA968/2023**

Order pronounced, recorded vide separate sheets. In the result, this application is admitted. Liquidation process against the Corporate Debtor is ordered to be carried out as per the rules. Accordingly, IA is allowed and disposed of.

**IA 1025/2023**

Since order of Liquidation against the Corporate Debtor passed. According to the Ld. Counsel, the reliefs in this IA 1025/2023 have become infructuous. Hence this application is dismissed as infructuous.

**Sd/-**

**MEMBER (T)**

**Sd/-**

**MEMBER (J)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH – 1**

**IA (IBC) 968/2023 in  
CP (IB) No. 771/9/HDB/2019**

*Under Section 33(1)(a) read with Section 60(5) of the Insolvency and  
Bankruptcy Code, 2016 and Rule 11 of the National Company Law  
Tribunal Rules, 2016*

**In the matter of M/s. Maqdoom Moghny Enterprises Pvt. Ltd.**

**Filed by:**

Mr. C.A Sreedhar Nukala  
Resolution Professional for  
M/s. Maqdoom Moghny Enterprises Private Limited  
IBBI/IPA-001/IP-P00432/2017-2018/10755  
No. 6-3-252/A/8&9, 203,  
Mount Castle Apartments,  
Erramanzil Colony, Near Taj Deccan,  
Hyderabad – 500082.

... Applicant/Resolution Professional

**In the matter of**

M/s. Manish Fashion World Private Limited

...Operational Creditor

Versus

M/s. MaqdoomMoghny Enterprises Private Limited

... Corporate Debtor

**Date of Order: 28.06.2023**

**Coram:-**

Dr. Venkata Ramakrishna Badarinath Nandula, Hon'ble Member  
(Judicial)

Shri. Charan Singh, Hon'ble Member (Technical)



**Appearance:-**

For the Applicant/RP : Shri Dishit Bhattacharjee, Counsel  
Resolution Professional : Shri C.A Sreedhar Nukala

**PER: BENCH**

1. This is an application filed by the Resolution Professional (hereinafter referred to as “RP”) under Section 33(1)(A) read with Section 60(5) of the Insolvency and Bankruptcy Code, 2016 and Rule 11 of the National Company Law Tribunal Rules 2016 (hereinafter referred to as “the Code”) praying this Adjudicating Authority to order liquidation of M/s. MaqdoomMoghny Enterprises Private Limited (hereinafter referred to as “Corporate Debtor”) in accordance with Chapter III of Part II of the IBC, 2016 and to pass ad-interim and interim reliefs in terms of Clause A.
  
2. **The gist of the Application in brief:**
  - a. It is averred that this Tribunal vide order dated 13.05.2022 allowed the application filed by the Operational Creditor under section 9 of I&B Code, 2016 and admitted the Corporate Debtor. In furtherance to the same, this Tribunal passed an order in IA. (IBC) 703/2022 dated 25.07.2022 while allowing the application on the appointment of Shri B.Vijaya Kumar (Erst-while Resolution Professional).
  
  - b. The Erstwhile Resolution Professional issued public announcement vide Form A inviting claims from the creditors and after verifying the claims Committee of Creditor was constituted in accordance with Section 21 of IBC, 2016.



- c. In view of non-cooperation from the suspended directors the Erstwhile Resolution Professional filed an IA.No.780/2022 under Section 19(2) of IBC, 2016. That, this Tribunal vide its order dated 17.08.2022 directed the Respondents therein to cooperate with the erstwhile Resolution Professional. Nevertheless, there was no cooperation from the Suspended Directors IA.No.06/2022. However, the same was dismissed by this Tribunal on 09.02.2023 as “not pressed”.
- d. It is averred that the erstwhile Resolution Professional conducted the 8<sup>th</sup> CoC meeting was held on 12.01.2023 wherein the CoC member with requisite majority passed a resolution for replacement of the erstwhile RP. Therefore, CoC members filed IA.No.240/2023 wherein this Tribunal on 24.02.2023 was allowed the application and further appointed the present applicant herein as the Resolution Professional of the Corporate Debtor.
- e. It is averred that the Applicant herein after appointment as the Resolution Professional, took over the assets of the Corporate Debtor, placed Information memorandum and convened the 9<sup>th</sup> meeting of CoC on 17.03.2023 and in the said meeting the CoC members with 100% voting approved to issue expression of interest Form G, inviting application from prospective investors to resolve the insolvency of the Corporate Debtor and further approved to file an application before this Tribunal for extension of CIRP period.
- f. It is averred that the applicant herein had filed an IA.No.572/2023 for exclusion of 44 days from the date of replacement of erstwhile Resolution Professional in 8<sup>th</sup> CoC meeting i.e., 12.01.2023 till his



replacement on 24.02.2023. The Tribunal has allowed the application vide order dated 14.04.2023 and allowed the extension of CIRP period of the Corporate Debtor by a period of 25 days. The relevant extract of the order is produced herein under:

*“IA.No.572/2023 – This is an application filed by the Resolution Professional firstly for exclusion period of 44 days from 12.01.2023 to 24.02.2023, in computing the CIRP period and also for extension of CIRP period for 45 days effective from 07.04.2023. In so far as the relief of exclusion of period of 44 days is concerned, it is stated that 44 days have been lost on account of replacement of the then IRP and fresh RP taking over the charge, in so far as the extension of 45 days now sought is concerned, it is stated that after the new Resolution Professional took over, he had published form G receiving Resolution Plan, the CoC has resolved to seek extension of time by 45 days effective from 07.04.2023. This is a matter where 330 days of maximum time available for completion of CIRP is over. However, considering the submission that certain enquiries pursuant to publication of form G and there is a hope of the resolution of the Corporate Debtor, in the event of the likely Resolution plan have been received, we intend to grant 25 days’ extension with the direction to the Resolution Professional to complete the process and to take steps for liquidation of the Corporate Debtor, if no resolution plan is received/voted by CoC. We also grant exclusion of 44 days from 12.01.2023 to 24.02.2023. Accordingly, this petition is allowed and disposed of.”*



- g. It is averred that on 08.06.2023 in the 11<sup>th</sup> CoC meeting, in view of no prospective resolution plan before the CoC, the CoC passed the following resolutions:
- i. To consider and pass the following resolution to authorize the Resolution Professional to file an application before the Hon'ble Tribunal for the initiation of the Liquidation Process as no prospective resolution plan was received;
  - ii. That, Shri Sreedhar Nukala, ie., the Resolution Professional to engage the legal professional to file appropriate application for the initiation of Liquidation of the Corporate Debtor.
  - iii. To consider the appointment of Mr. Sreedhar Nukala ie., the Resolution Professional to be appointed as the Liquidator (who has given consent to act as Liquidator) with a monthly fee of Rs.1,00,000/- per month (inclusive of fee and expenses).
- h. It is further averred that the last date of the CIRP of the Corporate Debtor was on 14.06.2023. The CoC did not receive any Resolution Plan whatsoever and thus the members of the CoC suggested to consider the liquidation of the Corporate Debtor which was subsequently approved by 100% of the members of the CoC. Therefore, as per the provisions of Section 33(2) of the IBC 2016, an order of liquidation is required to be passed against the Corporate Debtor. Thus submitting, Resolution Professional prayed the Adjudicating Authority to pass a liquidation order.
3. In the light of the above the point that emerges for our consideration is:



**Whether the liquidation process against the Corporate Debtor herein can be ordered?**

4. We have heard the Learned Counsel Shri Dishit Bhattacharjee, for the Applicant/RP and learned RP. Perused the record.

**Point:**

Whether the liquidation process against the Corporate Debtor herein can be ordered?

5. From the above, it would appear that despite all possible steps as required under the Code taken during the CIRP, the CoC did not receive any viable resolution plan/proposal for revival of the Company. The CoC in its wisdom has resolved in favour of the liquidation of the Company. This Adjudicating Authority has no reason before it to take a contrary view in terms of Section 33 (2) of the Code.
6. We are fully conscious of the fact that the primary object of IBC is resolution and liquidation is the last resort. At the same time keeping the timelines prescribed under the IBC is paramount, lest asset value gets deteriorated. Therefore, taking into consideration the provisions of law as well as the documents on record, this Adjudicating Authority is of the view that since the efforts to obtain resolution of the Corporate Debtor have failed and the only option left, under the circumstances being early liquidation process, we allow this petition, directing the liquidation of the Corporate Debtor.
7. Before we part with, we would like to refer to the ruling of Hon'ble Supreme Court in *Innoventive Industries Limited Vs ICICI Bank & Anr* in Civil Appeal No. 8337-8338 of 2017, wherein it has been held as follows :-



*“From the viewpoint of creditors, good realization can generally be obtained if the firm is sold as a going concern. Hence, when delays induce liquidation, there is value destruction. Further, even in liquidation, the realization is lower when there are delays. Hence, delays cause value destructions. Thus, achieving a high recovery rate is primarily about identifying and combating the sources of delay”*

8. We therefore hope that the Liquidator whom we have appointed would sincerely endeavour to sell the Corporate Debtor as a going concern without delay, however, by observing the relevant provisions contained in IBC as well as in IBBI (Liquidation Process) Regulations and thus ensure that one of the objects of the IBC viz. maximization of the assets of the Corporate Debtor is not diluted.

### **ORDER**

- A. This Adjudicating Authority hereby orders liquidation of the Corporate Debtor, i.e., M/s. Maqdoom Moghny Enterprises Private Limited, which shall be conducted in the manner as laid down in Chapter III of the Code;
- B. Shri. C.A Sreedhar Nukala having IP registration no. IBBI/IPA-001/IP-P00432/2017-2018/10755, is hereby appointed as Liquidator;
- C. He shall issue public announcement stating that the Corporate Debtor is in liquidation in terms of Regulation 12 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- D. The moratorium declared under Section 14 of the Code, shall cease to have effect from the date of the order of liquidation;
- E. Subject to Section 52 of the Code, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such



transactions as may be notified by the Central Government in consultation with any financial sector regulator.

**F.** All the powers of the Board of Directors, Key Managerial Personnel and partners of the corporate Debtor shall cease to have effect and shall be vested in the Liquidator.

**G.** The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code read with the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

**H.** Personnel connected with the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as would be required for managing its affairs.

**I.** The Liquidator shall be entitled to such fees as may be specified by the Board in terms of Section 34(8) of the Code.

**J.** The Applicant is directed to serve the copy of this order to Registrar of Companies, Regional Director, Official Liquidator of Hyderabad, Registered office of the Corporate Debtor for information and compliance.

**SD/-**

(Sh.Charan Singh)  
Hon'ble Member (Technical)

**SD/-**

(Dr.Venkata Ramakrishna Badarinath Nandula)  
Hon'ble Member (Judicial)

*Sridher/Binnu*