

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1

IA 818 of 2020 in CP(IB) 377 of 2018

Coram: MADAN B. GOSAVI, MEMBER (JUDICIAL)
VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE
AHMEDABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 13.01.2021

Name of the Company: Devang P Sampat RP of Kanoovi Foods Pvt Ltd

Section: 33 & 34 of Insolvency and Bankruptcy Code, 2016

ORDER

The case is fixed for pronouncement of order.

The Order is pronounced in the open court, vide separate sheet.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Dated this the 13th day of January, 2021

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT -I**

**I.A. No. 818 of 2020
IN
CP(IB) No. 377/9/NCLT/AHM /2018**

In the matter of :

[An Application is filed under Section 33 & 34 of the Insolvency & Bankruptcy Code, 2016]

AND

In The Matter Of:

Mr. Devang P. Sampat

Resolution Professional for

Kanoovi Foods Private Limited (Corporate Debtor)

having address at:

Bungalow No. 4, Shiv Pooja Plot 100,

Sector -29, Vashi Navi Mumbai-400 703

...Applicant

Order Reserved on: 11th January, 2021
Order Pronounced on: 13th January, 2021

**Coram: MADAN B GOSAVI, MEMBER(J)
VIRENDRA KUMAR GUPTA, MEMBER (T)**

Appearance:

Learned Counsel Mr. Anip Gandhi appeared for the Applicant.

Resolution Professional Mr. Devang Sampat appeared.

ORDER

[Per: VIRENDRA KUMAR GUPTA, Member (T)]

1. The present Interlocutory Application is filed by the Resolution Professional seeking for passing an Order of liquidation under Section 33 & 34 of the Insolvency & Bankruptcy Code, 2016 for initiation of Liquidation Process of **Kanoovi Foods Private Limited** -the Corporate Debtor.
2. The facts, in brief, are that :
 - I. This Adjudicating Authority admitted Corporate Debtor in to Corporate Insolvency Resolution Process vide its order dated 26th July, 2019 in CP(IB) No. 377/NCLT/AHM/2018 and vide order dated 18th November, 2019 in IA No. 700 of 2019 (filed u/s 22 (3) (b) of the IBC, 2016) appointed the Mr. Devang P. Sampat as "RP".
 - II. The Applicant submits that in sixth meeting of the Committee of Creditors (hereinafter referred to as CoC) held on 2nd July, 2020, the members of the CoC resolved to liquidate the Corporate Debtor as going concern. The said resolution was approved with the majority of 95.37%. The minutes of the said meeting is annexed with the application.

III. It is submitted that in Seventh meeting of the CoC held on 16th September, 2020, wherein, the Resolution Professional is appointed as the "Liquidator" and his fees was also approved as per the Regulations of Corporate Insolvency Resolution Process Regulations and contributions to be paid as per Regulation 2 of Liquidation Regulations of Rs. 27,33,320/- by 92.28%. The said minutes is annexed with the application.

IV. The Resolution Professional has calculated average fair market value and average liquidation value of the Corporate Debtor which is as follows:

Kanoovi Foods Pvt. Ltd.			Rs.
Valuation		Fair Value	Liquidation Value
Bharat Kuvadia	Fin Assets.	NIL	NIL
Vishal Shah	Plant & Machinery	20,659,000.00	11,359,950.00
Parth Shah	Land & Bldg.	24,817,800.00	14,890,680.00
		45,476,800.00	26,247,630.00
Jigar Shah	Fin. Assets	-	-
R K Patel	Plant & machinery	20,510,000.00	12,306,000.00
R K Patel	Land & Bldf.	25,487,000.00	15,884,000.00
		45,997,000.00	28,190,000.00
	Average	45,736,900.00	27,218,815.00

- V. The Applicant has prepared a consolidated summary of the valuation report which is annexed with the application.
- VI. The Applicant submits that pursuant to the public announcement inviting expression of interest in Form –G the applicant has received NIL EoI/Resolution Plan. Hence, the members of the CoC has decided to liquidate the Corporate Debtor.
- VII. The Applicant submits that the entire Plant and Machineries and Business of the Corporate Debtor is a single segment and at single location, integrated and will be have to be sold as a single group and the liquidator shall identify and group the assets and liabilities to be sold as a going concern, in consultation with consultation committee as per Reg. 32 A (3) of IBBI (Liquidation Process) Reg. 2016. The applicant submits that CoC in its commercial wisdom has resolved to approve for liquidation as a going concern of the Corporate Debtor in terms of Section 33 of the Code. Hence, this application.



3. The Learned Counsel for the applicant appeared and narrated these basic facts.
4. We have considered the submissions made by the Applicant and our attention was drawn to the revised Form -H and in particular Clause 15A, 15B and 15C containing the details of the costs of liquidation. It is noted that CoC in its meeting dated 22nd July, 2020 passed a resolution to liquidate the Corporate Debtor as a going concern. However, subsequently in its meeting dated 16th September, 2020 the CoC noted that the Company was not a going concern nor any employees were there. However, no specific Resolution was passed as to whether the Corporate Debtor was to be liquidated as a going concern or otherwise but Resolution passed earlier was noted. Hence, considering the Resolution of the sixth meeting of the CoC, wherein liquidation as a going concern was approved with 95.37%, we hold that the Corporate Debtor is to be liquidated firstly as a going concern. We also find that the Liquidation Costs and including fee payable to Liquidator have been determined. He also prayed that all the legal formalities have been duly complied with and

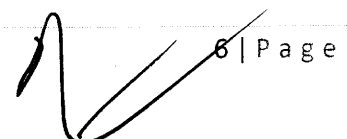
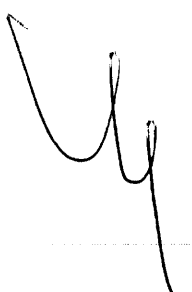
necessary formalities had been produced on record hence a order of liquidation can be passed.

5. The share of each contributory in liquidation costs in the event of short fall in realisation from sale of assets has also been determined. This application, thus, complies with all requirements provisions of the Insolvency & Bankruptcy Code, 2016 r.w. relevant Regulations made thereunder. Accordingly, we admit the same and the order of liquidation of the Corporate Debtor in terms indicated as under.

ORDER

1. We hereby pass the order of liquidation of the Corporate Debtor Company **Kanoovi Foods Private Limited**. We allow IA No. 818 of 2020. The Liquidation of the Corporate Debtor is effective from the date of this order.
2. The Moratorium declared vide order dated 26.07.2019 in CP(IB) No.377/9/NCLT/AHM/2018, henceforth, ceases to exist.


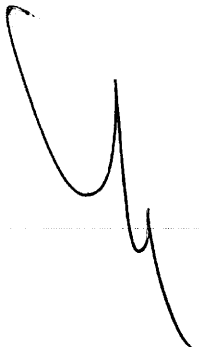
As per the Section 34(1) of the I.B. Code, the Applicant/ Resolution professional, **Mr. Devang P. Sampat** (**Registration No. IBBI/IPA-001/IP-P00224/2017-18/10423**) is hereby appointed as a 'Liquidator' of the



6 | Page

Company **Kanoovi Foods Private Limited.**, which has been duly approved by CoC in its seventh meeting dated 16.09.2020.

4. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter cease to exist. All these powers henceforth, vest with the Liquidator.
5. The Liquidator will charge fees for 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.
6. That once having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suite or other legal proceeding on behalf of the corporate debtor with prior approval of this Adjudicating Authority as mentioned in Sub-Section 6 of Section 33 of the I.B. Code.



7. The Liquidator shall take necessary legal action to recover the trade receivables and other credits such as loans and advances from the parties which are reflected in the latest balance sheet of the Corporate Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed under Section 33(5) of the Code.
8. 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.
9. The Registry is directed to upload this order on the Official Website within maximum two working days from the date of this order. The authenticated copy of this order also be sent by the registry to the Financial Creditor, Corporate Debtor, Registrar of the Company, Resolution Professional cum Liquidator by Speed-post within one week from this order.
10. **Accordingly, I.A. No. 818 of 2020 is allowed and stands disposed of a.w. main CP(IB) No. 377 of**

2018. The Liquidator to file preliminary/progress report
as per the Regulations before this Authority.



**(VIRENDRA KUMAR GUPTA)
MEMBER (T)**



**(MADAN B GOSAVI)
MEMBER (J)**

Signed on this, the 13th January, 2021.

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