

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**COURT - 2**

ITEM No.303

IA/825(AHM)2023 in CP(IB)/298(AHM)2022

**Order under Section 33 & 34 IBC**

**IN THE MATTER OF:**

IQBAL SINGH GANDHI RP OF RAJKAMAL LOGISTICS  
PRIVATE LIMITED

.....Applicant

.....Respondent

**Order delivered on: 26/09/2024**

**Coram:**

**Mrs. Chitra Hankare, Hon'ble Member(J)**  
**Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)**

**ORDER**

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

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**DR. V. G. VENKATA CHALAPATHY**  
**MEMBER (TECHNICAL)**

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**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL**

**AHMEDABAD (COURT - II)**

**IA 825 of 2023**

**In**

**CP(IB) No. 298 of 2022**

(Filed under Section 33 r.w. Section 34 of the IBC, 2016 seeking initiation of Liquidation Process against the Corporate Debtor i.e. M/s. Rajkamal Logistics Pvt. Ltd. )

**IN THE MATTER OF:**

Iqbal Singh Gandhi  
RP of Rajkot Logistics Pvt. Ltd.  
Having office at  
9B, Vardan Tower, Lakhudi Circle,  
Navrangpura,  
Ahmedabad-380014

... Applicant

Order pronounced on 26.09.2024

**Coram:**

**MRS. CHITRA HANKARE  
HON'BLE MEMBER (JUDICIAL)**


**MR. VELAMUR G VENKATA CHALAPATHY  
HON'BLE MEMBER (TECHNICAL)**

**Present:**

For the Applicant : Mr. Sumit Parikh, Adv.


**JUDGEMENT**

1. This application is filed under Sec 33 read with Sec 34 of IBC 2016 seeking initiation of liquidation against the CD M/s Rajkamal Logistics Pvt Ltd which was admitted into CIRP vide order dated 07.02.2023 by this Tribunal in CP(IB) 298/2022 under Sec 7 of IBC on an application filed by Allahabad Bank (now Indian Bank) and the IRP was appointed. The IRP had placed a public notice under Sec 15 of the Code read with Reg. 6 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 in prescribed Form A on 10.02.2023 and on receipt of claims formed the Committee of Creditors on 28.02.2023 who in their first meeting held on 06.03.2023 resolved to continue the same IRP as RP. The CoC was further reconstituted on 06.04.2023.
2. It is stated that pursuant to the issuance of Form- G, only one expression of interest was received from Prospective Resolution Applicant M/s. Yantrapur Developers Pvt Ltd which was found to be not complying with the IBC requirements. CoC in the 3<sup>rd</sup> meeting held on 08.06.2023 recommended for initiation of liquidation process against the Corporate Debtor by 100% voting. The same RP was also




authorised to continue as the liquidator. The RP has filed this application praying for the liquidation of the CD.

3. It is observed that the CD had given a corporate guarantee favouring one Siddhi Vinayak Logistic Ltd and financial creditor had invoked this guarantee and filed a Sec 7 application which was admitted by this Tribunal and the RP was appointed. All 5 members of CoC are unsecured creditors for an amount of Rs.2181,95,48,856/- has been claimed against the CD which was subsequently revised to Rs.2395,09,58,063/-. It is stated in the minutes of the CoC that there was only a flat available (subject to verification of whether it has been sold) and certain investments in securities. The RP had filed Form H on 09.09.2023. It is stated that there are no liquid assets available and the estimated liquidation cost of Rs.3,05,000/- has been approved by the CoC to be claimed from them.
4. Our observations are that there are no liquid assets available and the CD has given huge Corporate Guarantee and taken into CIRP since long and the matter is pending. There is no point in continuing the CIRP as there are no assets available and the CoC has already approved the liquidation.

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5. The Hon'ble Supreme Court in the matter of K. Sashidhar Versus Indian Overseas Bank & Ors in Civil Appeal No. 10673 of 2018 has held that the commercial decision of CoC is non-justiciable by this Tribunal. In this case, it is seen that CoC with 100% majority has passed the resolution seeking liquidation of the Corporate Debtor.
6. In view of the above, we pass the following orders:


**ORDER**

- I. IA 825 of 2023 in CP(IB) 298 of 2022 is allowed.
- II. The Liquidation of Corporate Debtor is effective from the date of this order and the Moratorium declared vide order dated 07.02.2023 in CP(IB) 298 of 2022, henceforth ceases to exist from the date of the order of liquidation.
- III. In terms of the IBBI, circular number 12011/214/2023 IBBI/840 dated 18.07.2023 we hereby appoint Mr. Kiran Kumar Patel having registration no. IBBI/IPA-002/IP-N01009/2020-2021/13291 and email id cskiranpatel@gmail.com as per the panel suggested by IBBI for this Bench as the Liquidator of the Corporate Debtor to carry the liquidation process. The Liquidator



so appointed shall complete the Liquidation process as per the provisions of the Insolvency and Bankruptcy Code, 2016 r.w Insolvency and Bankruptcy Board of India (Liquidation process) Regulation, 2016.


- IV. All the powers of the Board of Directors, key managerial persons, and the partner 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 same shall be paid to the Liquidator from the proceed of the liquidation estate under section 53 of the Code.
- 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 the liberty to institute a suit and



other legal proceedings 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 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 workmen/employees could also be informed of this liquidation order through their association.

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- X. The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section - 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.
- XI. The Registry is directed to communicate this order to the concerned Registrar of the Companies, the registered office of the Corporate Debtor, IBBI, the resolution professional, and the Liquidator by speed post as well as e-mail within one week from the date of this order, after completion of all the formalities.

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**DR. V. G. VENKATA CHALAPATHY**  
**MEMBER (TECHNICAL)**

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**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**