IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

COURT – IV

25. **IA-923/2021 in C.P.(IB)/809(MB)/2020**

CORAM:

SHRI MANOJ KUMAR DUBEY
MEMBER (Technical)

SHRI KISHORE VEMULAPALLI
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON **26.07.2022**

NAME OF THE PARTIES:

Nailesh Dresswala
Vs
MTC E-Com Pvt. Ltd.

SECTION: 7, 33(1) (b) (i) to (iii) r/w 33(3) OF INSOLVENCY AND BANKRUPTCY CODE, 2016.

O R D E R

The Court is convened through Video Conference.

1. Ms. Aditi Tiwari i/b Jerome Merchant & Partners, Ld. Counsel for the Applicant present.

2. IA-923/2021 has been filed by the RP seeking liquidation of the Corporate Debtor. Heard the Counsel and perused the records. IA is **allowed** vide separate orders.

Sd/-
MANOJ KUMAR DUBEY
Member (Technical)

Sd/-
KISHORE VEMULAPALLI
Member (Judicial)

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH : C-IV

IA-923/2021 in CP(IB)-809(MB)/2020

Under Section 33(1) of Insolvency & Bankruptcy Code, 2016.

Dilip Gupta
……Resolution Professional/ Applicant

In the matter of

Nailesh Dresswala
…….Operational Creditor

Vs.

MTC E-Com Pvt. Ltd.
…….Corporate Debtor

Ordered on: 26.07.2022

Coram:

Mr. Manoj Kumar Dubey
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant/RP : Ms. Aditi Tiwari i/b Jerome Merchant & Partners, Advocates.

ORDER

1. This is an application filed by Mr. Dilip Gupta, Resolution Professional of the Corporate Debtor, seeking liquidation of MTC E-Com Private Limited under Section 33(2) of Insolvency and Bankruptcy Code, 2016 (hereinafter called as the "Code").

2. **<u>The brief facts of the Application are as follows:</u>**

A. This Tribunal vide an order dated 17.08.2020 in Company Petition No. 809/2020 admitted the petition under Section 9 of the Code, filed by Mr. Nailesh Dresswala (hereinafter referred to as the "Operational Creditor") and Corporate Insolvency Resolution Process (CIRP) was initiated against MTC E-Com Private Limited, (hereinafter called as the "Corporate Debtor"). The applicant was appointed Interim Resolution Professional by this Tribunal vide the admission order dated 17.08.2020. He was appointed as Resolution Professional in the first CoC meeting held on 16.09.2020.

B. The Applicant Submits that, the RP had appointed Statutory Auditor viz. M/s. Ajay Shobha & Company on 23.10.2020 for preparation of books of accounts and financial statements from the F.Y. 2018-19 till the commencement of CIRP.

C. The Applicant further submits that two registered valuers viz. Mr. Vinay Totla and Ms. Asha Ghosal were appointed for the determination of fair value and liquidation value of the Corporate Debtor.

D. The Applicant further submits that on 31.10.2020, he issued Form G along with Information Memorandum and Expression of Interest calling invitations from prospective resolution applicants under section 30(6) of the Code.

E. The Applicant further submits that in response to the above, he received an Expression of Interest on 09.11.2020 from Mr. Harsha Vardhan Reddy. However, the same was withdrawn by Mr. Harsha Vardhan on 04.01.2021 through an email. Further, the Applicant received two more Expression of Interests from (i) Puneet Advisory Services Pvt. Ltd.

through an email dated 25.11.2020 and (ii) Team Osrik through an email dated 07.11.2020. However, there did not meet the eligibility criteria.

F. The Applicant further submits that as there being no successful resolution applicants, the CoC in its third meeting held on 11.02.2021, resolved to initiate liquidation proceedings against the Corporate Debtor. The resolution was passed with 100% voting of the CoC. The same is reproduced below:

"RESOLVED THAT the consent and approval of members of the Committee of Creditors be and is hereby accorded for initiation of liquidation of "MTC Ecom Private Limited" (Corporate Debtor)".

"RESOLVED FURTEHR THAT the consent approval of members of the Committee of Creditors be and is hereby accorded for filing of application and intimation to Hon'ble National Company Law Tribunal, Mumbai bench under regulation 33(2) of IBC, 2016, for the initiation of liquidation of "MTC Ecom Private Limited" (Corporate Debtor)".

G. The Applicant further submits that, in the said meeting of the CoC, the name of Mr. Balaji Shrirang Sagar was proposed as Liquidator to conduct Liquidation process of MTC Ecom Private Limited and accordingly following resolution was passed:

"RESOLVED THAT Mr. Balaji Shrirang Sagar, Insolvency Professional vide IBBI Registration No. IBBI/IPA-001/IP-P01555/2018-2019/12441, be and is hereby appointed as Liquidator of MTC ECOM Private Limited for the Liquidation period".

H. Considering the facts and circumstances as submitted by the Counsel appearing for the Applicant, the Bench is of the considered view that the Corporate Debtor be liquidated. Accordingly, this Bench orders that -

a. IA-923/2021 in CP(IB)-809(MB)/2020 filed by the Applicant for the Liquidation of MTC Ecom Milk Private Limited.

b. Mr. Balaji Shrirang Sagar, having Registration No. IBBI/IPA-001/IP-P01555/2018-2019/12441 is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.

c. 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.

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. 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. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.

h. 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.

i. 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 proceedings on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.

j. 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-923/2021 in CP(IB)-809(MB)/2020 filed u/s 33(2) by the Applicant is hereby allowed and **disposed** of.

Sd/-	Sd/-
MANOJ KUMAR DUBEY	KISHORE VEMULAPALLI
Member (Technical)	Member (Judicial)

26.07.2022/pvs