



**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH, COURT – V**

**I.A. No. 71 of 2024  
IN  
C.P. (I.B) 295/MB/2022**

[Under Section 33(1)(a) of the Insolvency and  
Bankruptcy Code, 2016]

**Pankaj Sham Joshi**

Resolution Professional of Hybro Foods Private  
Limited

Having his address at 9, Sudarshan Co-op.,  
Hsg., Soc., Ltd., Mahant Road, Vile Parle East,  
Mumbai – 400057

E-mail ID: [pjoshi.ip@gmail.com](mailto:pjoshi.ip@gmail.com)

**...Applicant/Resolution Professional**

***In the matter of***

**Kotak Mahindra Bank Ltd.**

**...Petitioner/Financial Creditor**

*Versus*

**M/s. Hybro Foods Private Limited**

**... Respondent/Corporate Debtor**

**Order Dated: 27.03.2025**

**Coram:**

Sh. Sushil Mahadeorao Kochey, Hon'ble Member (Judicial)

Sh. Charanjeet Singh Gulati, Hon'ble Member (Technical)

**Appearances:**

For the Applicant: Adv. Ayush Kothari a/w Adv. Ajay Deshmane (PH)



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**ORDER**

1. The present **I.A. No. 71 of 2024** has been filed under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as ‘Code’) by **Mr. Pankaj Sham Joshi** (hereinafter referred to as ‘Applicant’/ ‘Resolution Professional’), the Resolution Professional of **M/s. Hybro Foods Private Limited** (hereinafter referred to as ‘Corporate Debtor’) seeking following reliefs as follows:

- i) *To pass an order to liquidate the Corporate Debtor in accordance with Chapter III of the Insolvency and Bankruptcy Code, 2016;*
- ii) *Appoint the Applicant as the Liquidator of the Corporate Debtor to conduct the liquidation process of the Corporate Debtor in accordance with Chapter III of the Insolvency and Bankruptcy Code, 2016 and regulations thereto, and,*
- iii) *For such other and further reliefs as in the circumstances this Hon’ble Tribunal may deem fit and proper.*
- iv) *Costs of the application.*

2. On an application filed by the Financial Creditor under Section 7 of the Code, Corporate Insolvency Resolution Process (‘CIRP’) of the Corporate Debtor was commenced vide order dated 03.03.2023 in C.P.(IB)295/MB/2022 (‘said Order’/ ‘Insolvency Commencement Date’). Subsequent to the said Order, the Applicant was appointed as Interim Resolution Professional (‘IRP’).

3. The IRP issued a Public Announcement in Form – ‘A’ on 06.03.2023. The Public Announcement was made in one English Language Newspaper (The Financial Express, English Edition) and in Marathi Language Newspaper (Navkal, Marathi Edition) having circulation in Thane District,



inviting the creditors of the Corporate Debtor to file their proof of claims. The last date of submission of claims was 17.03.2023.

**4.** As stated by the Applicant, the Corporate Debtor was engaged in the business of chicken processing, frozen chicken and related products. The Applicant visited the Corporate Debtor's factory premises at Shahapur on 10.03.2023 and observed that operations had ceased since 31.12.2022, with no employees or workmen present, and the Corporate Debtor was no longer a going concern. The premises had no stock, work-in-progress materials, consumables, hazardous chemicals, or combustible items. The factory had no electricity, was in a dilapidated state, and parts of the boundary wall had collapsed. Additionally, the slaughter line equipment was dismantled and placed near the administrative gate, while essential machinery like compressors, cookers, refrigeration units, and vehicles were missing, which the suspended Director, Mr. Shaikh, admitted had been sold to meet certain liabilities. The Applicant further observed that the land and building housing the Corporate Debtor's factory premises belonged to the father of the suspended Director, Mr. Zeeshan Shaikh. It was presumed that the Corporate Debtor had a lease agreement for operating from the premises. Upon requesting a copy of the lease agreement, Mr. Zeeshan Shaikh provided a document for Plot No. 247 at Village Lahe, Tal Shahapur, Thane. However, this agreement was between Mr. Mohammad Ashraf Aslam Qureshi (Lessor) and Mr. Shaikh Shawkat (Lessee) and had no connection to Plot No. 246, where the Corporate Debtor's factory was actually located. After taking possession, the Applicant replaced the locks at the premises and engaged Redline Security to deploy unarmed guards to safeguard the Corporate Debtor's assets on the 15-acre property.

**5.** In pursuance of the Public Announcement, the Applicant received and collated claim of creditors of the Corporate Debtor, after due verification and determination of claims, the Applicant admitted total claims amounting to Rs. 20,40,73,440.12. Further, based on the claims received and admitted, the Committee of Creditors ('CoC') was constituted



comprising of two creditors, i.e. Kotak Mahindra Bank Ltd. and Union Bank of India. The CoC passed resolution to appoint the IRP as a Resolution Professional ('RP'), in the 1st CoC meeting held on 30.03.2023.

**6.** Further, the Applicant appointed Mr. Kedar Chikodi, Mr. Mahadev Kalburgi, Mr. RV Chirag Shah, and Mr. Harshad Deshpande as the Registered Valuers for determining Fair and Liquidation Value of Plant and Machinery, Securities and Financial Assets of the Corporate Debtor.

**7.** The Applicant stated that despite multiple communications and requests, the suspended Directors of the Corporate Debtor deliberately withheld information about the company's properties. They also allegedly disposed of certain assets to keep them out of the CIRP's scope, enabling the Directors to misappropriate the sale proceeds and defraud creditors. The suspended Directors failed to cooperate with the Applicant by concealing the Corporate Debtor's assets during the insolvency process, amounting to willful concealment of property. These concerns were repeatedly recorded in CoC meetings, and it was resolved to take legal steps. Consequently, the Applicant filed an Interlocutory Application (I.A. No. 5571 of 2023) under Section 19(2) of the IBC, seeking directions for the Directors to disclose the requested information and hand over undisclosed assets, including plant machinery and vehicles. Additionally, the Applicant filed another application (I.A. No. 5570 of 2023) under Section 60(5) of the IBC, requesting the Tribunal to direct the suspended Directors to restore the sold assets or pay their market value. Both the said applications are currently pending adjudication.

**8.** Applicant published 'Invitation of Expression of Interest' in Form G on 29.04.2023, calling upon Prospective Resolution Applicants ('PRA') to submit their expression of interest on or before 14.05.2023. The said Form G was published in Financial Express (English edition) and Navakal (Marathi edition). In pursuance of publishing Form G., the Applicant received Expression of Interest from two Prospective Resolution Applicants till the Cut-off date of receipt of expression of interest, i.e. 14.05.2023.



Additionally; the Applicant also received another Expression of Interest from one Nakshatra Corporate Advisors Limited, on 15.05.2023 which is one day after the last date for submission of Expression of Interest. However, Regulation 36(6) of CIRP Regulations, clearly states that the Expression of Interest received after time specified in Form - G is to be rejected. Thus, in view of the aforesaid Regulation, the CoC, in its 5th meeting held on 23.05.2023, resolved not to accept the Expression of Interest from Nakshatra Corporate Advisors Limited as it was submitted beyond the stipulated time given in Form - G.

9. The Applicant states that the last date of submission of Resolution Plan under Form G was 28.06.2023. Although there were two eligible PRAs in the Final List, no Resolution Plan was submitted by them till the last date for submission of Resolution Plan. This fact was informed to the members of CoC. Additionally, in the 6th meeting of CoC held on 07.07.2023, the Applicant apprised the CoC that as per amended CIRP Regulation 36A (4), Form G can once again be re-issued. However, the members of the CoC, in view of the fact that the Corporate Debtor had no assets and is not a going concern, unanimously decided not to re-issue Form G.

10. The COC in the 8<sup>th</sup> COC meeting held on 28.08.2023 (the 177<sup>th</sup> day from the Insolvency Commencement Date), resolved by 82.45% vote to initiate the process of liquidation of the Corporate Debtor under IBC as there was very less chance of getting any Resolution Applicant as the Corporate Debtor does not have any asset. The said resolution has been recorded under Item VII of the Minutes of 8<sup>th</sup> Meeting held on 28.08.2023. The relevant extract of the resolution as approved is given in “Exhibit L: Copy of 8th Minutes of Meeting dated 28.08.2023” of the Petition, which is reproduced as under:

*“The Committee of Creditors **Resolved that** liquidation process be initiated in respect of the Hybro Foods Private Limited (Corporate Debtor) as per the provisions of the Insolvency and Bankruptcy Code, 2016.”*



*The Committee of Creditors further “**Resolved that** the Resolution Professional be directed to file a liquidation application under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 before the Hon. NCLT, Mumbai Bench.””*

- 11.** Accordingly, the CoC also passed a Resolution to appoint the Applicant as the Liquidator. The relevant extract of the resolution as approved is given in “Exhibit L: Copy of 8th Minutes of Meeting dated 28.08.2023” of the Petition, which is reproduced as under:

*“The Committee of Creditors “**Resolved that** Mr. Pankaj Sham Joshi be appointed as the Liquidator of Hybro Foods Private Limited.”*

*The Committee of Creditors “**Further resolved that** a fee of Rs. 1,10,000/- per month excluding GST and out of pocket expenses (reimbursable at actuals) shall be paid to Mr. Pankaj Sham Joshi as the Liquidator of the Corporate Debtor from the date of the liquidation order till the date of receipt of the order for dissolution of the Corporate Debtor.””*

- 12.** Accordingly, the present Interlocutory Application was filed under Section 33(1)(a) of the Code seeking Liquidation of the Corporate Applicant.
- 13.** We have considered the submissions made by the counsel for the applicant and perused the documents available on record.
- 14.** Considering the resolution passed by the CoC to liquidate the Corporate Debtor Company on grounds that it is not operating as a going-concern and has no assets and further has not received any resolution plan before the expiry of CIRP therefore, the order of liquidation is to be passed by this Adjudicating Authority under section



33 of the Code. The said Section is quoted below for the convenience and the ready reference:

*“(1) Where the Adjudicating Authority, —*

*a. before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or*

*b. rejects the resolution plan under Section 31 for the noncompliance of the requirements specified therein, it shall—*

*(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;*

*(ii) issue a public announcement stating that the corporate debtor is in liquidation; and*

*(iii) require such order to be sent to the authority with which the corporate debtor is registered.*

*(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 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 subsection (1).”*

**15.** Given the facts and circumstances of the case and discussions hereinabove, we are satisfied and is of the considered opinion that the present Interlocutory Application is in consonance with Section 33(1)(a) of the Code. Accordingly, this Authority is left with no option except to



pass an order for Liquidation of the Corporate Debtor Company in the manner laid down in Chapter III of the Code considering the fact there is no Resolution Plan for consideration and CoC does not foresee any possibility of getting Plans for the Corporate Debtor.

**16.** It is pertinent to note that the present case was listed before this Bench on 24.03.2025, wherein the Ld. Counsel for the Applicant submitted that an IP from the IBBI Panel may be appointed as the Liquidator in the present case. The said Daily Order dated 24.03.2025 is as under:

*“~~IA(LIQ.)/71/2024~~- This is the IA filed by the RP under Section 33 for Liquidation of the Corporate Debtor. Heard the Ld. Counsel for the RP. As regards, the appointment of Liquidator, Ld. Counsel submits that an IP from the IBBI Panel may be appointed as the Liquidator in this case and fee would be paid to him in accordance with the Regulation 4(b) / applicable provisions. **Reserved for Orders.***

**17.** Further, perusal of Exhibit – ‘M’ of the present Application reveals that the Authorisation for Assignment (AFA) of the Applicant (RP) was valid up to 20.11.2023. Thus, in view of the fact that the AFA of the Applicant has already expired and further considering the Daily Order dated 24.03.2025, this Bench deems it appropriate to direct that IP from the IBBI Panel may be appointed as the Liquidator in this case and fee would be paid to him in accordance with the Regulation 4(b) IBBI (Liquidation Process) Regulations, 2016.

**18.** Therefore, considering the totality of the facts and circumstances in the present case, the I.A. No. 71 of 2024 in C.P. (IB) No. 295 of 2022 is ordered as follows:

**ORDER**

**a)** The Application is allowed. The Corporate Debtor, Hybro Foods Private Limited, shall be liquidated in the manner as laid down in Chapter-III of the Code.



- b)** In view of the Daily Order dated 24.03.2025, we hereby appoint Mr. Roshen Chordiya, having Registration No. IBBI/IPA-001/IP-P 02840/2023-2024/14347 having e-mail id- risingsun192123@gmail.com and contact no.: 7000911711, as per Section 34(4) of the Code, from the panel of Insolvency Professionals maintained by the IBBI as the Liquidator of “Hybro Foods Private Limited” to conduct liquidation process.
- c)** That the Liquidator for conduct of the Liquidation proceedings would be entitled to fees as Regulation 4b of IBBI (Liquidation Process) Regulations, 2016.
- d)** The Moratorium declared under Section 14 of the IBC 2016 shall cease to operate here from. A fresh moratorium shall commence under Section 33(5) of IBC.
- e)** This order shall be deemed to be a notice of discharge to the officers, employees and the workmen of the Corporate Debtor as per Section 33(7) of the IBC.
- f)** Liquidator shall issue public announcement to Registrar of Companies, Maharashtra and Official Liquidator, Maharashtra stating that Corporate Debtor is in liquidation.
- g)** 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 suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.
- h)** All 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.
- i)** The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of Part-III of the Code read with the Liquidation Process Regulations.
- j)** All persons connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.



- k)** This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- l)** The Liquidator shall comply with the liquidation regulation and accordingly submit Progress Reports as per Regulation 15 of the IBBI (Liquidation Process) Regulations, 2016; and shall further apprise the Bench about the Liquidation Process of the Corporate Debtor.
- m)** Registry shall furnish a copy of this Order to:
- i. Insolvency and Bankruptcy Board of India, New Delhi;
  - ii. Regional Director (Western Region), Ministry of Corporate Affairs;
  - iii. Registrar of Companies & Official Liquidator, Maharashtra;
  - iv. Erstwhile Resolution Professional, Mr. Pankaj Sham Joshi
  - v. Liquidator, Mr. Roshen Chordiya;

**19.** Accordingly, this Application, stands disposed of as **Allowed**.

**20.** Ordered Accordingly.

SD/-

**CHARANJEET SINGH GULATI**

**MEMBER (TECHNICAL)**

SD/-

**SUSHIL MAHADEORAO KOCHEY**

**MEMBER (JUDICIAL)**

*/Jhanvi, LRA/*