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07-06-2022

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IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
DIVISION BENCH
COURT - 1

ITEM No.88

IA/44(AHM)2022 in CP(IB) 729 of 2019

Order under Section 33(1) & 33(3) IBC,2016

IN THE MATTER OF:

Kinjalkumar Madhubhai Choudhary RP of Rainbow IndustrialApplicant
Park Pvt Ltd

.....Respondent

Order delivered on ..31/05/2022

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The matter is listed today for pronouncement of the order.

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

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KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

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MADAN B GOSAVI
MEMBER (JUDICIAL)



I.A. No. 44 of 2022 in C.P. (I.B.) No. 729 of 2019

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

**I.A. No. 44 of 2022
IN
C.P. (I.B.) No. 729 of 2019**

[An application filed under Section 33 read with Section 34 of the
Insolvency and Bankruptcy Code, 2016]

In the matter of:

Mr. Kinjalkumar Madhubhai Chaudhary
Resolution Professional of
Rainbow Industries Park Pvt Ltd
Having its office at:
9B, Vardan Complex,
Near Vimal House,
Lakhudi Circle, Navrangpura,
Ahmedabad, Gujarat -380014

..... Applicant/ RP

**Order Reserved on 11/05/2022
Order Delivered on 31/05/2022**

**Coram: Madan B. Gosavi (Member Judicial)
Kaushalendra Kumar Singh (Member Technical)**

Appearance:

Learned Counsel Mr. Sumit Parikh for the Applicant



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ORDER
[PER: BENCH]

1. The present Interlocutory Application is filed by Resolution Professional under Section 33 read with 34 of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred "**IBC**", **2016**) seeking order of Liquidation of Corporate Debtor namely Rainbow Industrial Park Private Limited.
2. The Corporate Debtor was admitted into Corporate Insolvency Resolution Process (hereinafter referred "**CIRP**") vide order dated 05.10.2021 passed by this Authority in an application filed by the Operational Creditor namely Mr. Shashikant Thakar under Section 9 of the IBC, 2016 and Mr. Kinjalkumar Madhubhai Chaudhary having Registration No. (IBBI/IPA-001/IP-P-02196/2020-2021/13463) was appointed Interim Resolution Professional (hereinafter referred to as "**IRP**").
3. The IRP appointed by this Adjudicating Authority has made public announcement in "**The Financial Express**" English and Gujarati edition on 08.10.2021 for submission of claims by creditors and formulated the Committee of Creditors (hereinafter referred to as "**COC**").



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4. In the 1st COC meeting dated 01.11.2021, COC resolved to appoint IRP as Resolution Professional (hereinafter referred to as “**RP**”) of the Corporate Debtor by 100% voting. Further, the COC also resolved to publish Form-G in this same meeting.
5. The Applicant further submitted that no Expression of Interest (hereinafter referred to as “**EOI**”) was received from any prospective Resolution Applicant till the last date i.e 18.11.2021.
6. In the 2nd COC meeting dated 03.01.2022, COC dissented to initiate fresh EOI as the Corporate Debtor was non-operating and there were no assets in name of the Corporate Debtor. It is also noted that COC in the said meeting resolved to initiate Liquidation process of Corporate Debtor and further resolved to appoint RP as Liquidator of the Corporate Debtor with 100% voting. The RP has also given his consent in writing to act as Liquidator of Corporate Debtor. The said consent letter was filed before the Tribunal. The members of COC also approved the estimated Liquidation cost of Rs. 1,05,000/- as per Regulation 39B of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons Regulations, 2016). The COC also approved the assessment of sale as going concern as per Regulation 39C of CIRP Regulations.



7. We have heard the learned Counsel of the Applicant and perused the material on record. It is noted that the COC has unanimously decided to liquidate the Corporate Debtor. It was already resolved by COC not to re publish EOI for submission of Resolution Plan by prospective Resolution Applicant on the ground that there are no assets of the Corporate Debtor and there is no chance to find any prospective Resolution Applicant for the Corporate Debtor. Moreover, COC has passed the resolution to liquidate the Corporate Debtor with requisite voting as given under section 33(2) of the IBC, 2016. We are of the considered view that in the background of above facts and circumstances, the only option available is to liquidate the Corporate Debtor. Accordingly we allow this application and order as under:

ORDER

1. We pass the order for initiation of liquidation of Corporate Debtor in terms of provision of Section 33(1) and 33(2) of IBC, 2016 read with regulations made there-under which shall be effective from the date of this order.
2. As per the Section 34(1) of the I.B. Code, the Applicant/ Resolution Professional, **Mr. Kinjalkumar Madhubhai Chaudhary having**

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**Registration No. (IBBI/IPA-001/IP-P-02196/2020-2021/13463)
e-mail-cakmchaudhary@yahoo.in is hereby appointed as a
Liquidator of the company Rainbow Industrial Park Private
Limited** having CIN No. U45201GJ1992PTC018498, which has
been duly approved by COC in its 2nd COC meeting 03.01.2022.

3. 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.
4. The personnel(s) of the Corporate Debtor are directed to extend all co-operations to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
5. That once Liquidation process initiated, by virtue of 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 5 of Section 33 of the IBC, 2016.
6. The Liquidator is at liberty to seek any directions, if need be, from this Tribunal during the Liquidation Process.



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- 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.** It is directed to the Liquidator to first explore the sale of the Corporate Debtor as a going concern envisaged under Regulation 39C of the IBBI (Insolvency Resolution Process for the Corporate Persons), Regulations, 2016.
- 10.** It is also directed to the Liquidator to take into consideration the liquidation value of Corporate Debtor as per the valuation report annexed with the Application. It is also directed to the COC to contribute to the liquidation cost if any short fall occurs from the liquidation value of corporate debtor.
- 11.** The present I.A. No. 44 of 2022 is allowed directing the appointed Liquidator to initiate and complete Liquidation process as



envisaged under Chapter – III of the Code by following the Liquidation process as specified in the Insolvency and Bankruptcy Board of India (liquidation process) Regulations, 2016.

12. 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 be also 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.

13. Accordingly, the present I.A. No. 44 of 2022 in CP (IB) 729 of 2019 is allowed and stands disposed off.



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MADAN B. GOSAVI
MEMBER (JUDICIAL)

Shweta Desai

Prepared by Vimal
Signature [Handwritten Signature]
Date 7-6-2022

