

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH



COURT – IV : (Special Bench)

8. IA-103/2024 in C.P.(IB)/3236(MB)/2019

CORAM:

SHRI. SANJIV DUTT
MEMBER (Technical)

SHRI. KISHORE VEMULAPALLI
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON 27.11.2024

NAME OF THE PARTIES:

V. Singhi & Associates
Vs

Palavi Dealers Private Limited

SECTION: 9, 33(1)(b)(i) to (iii) r/w 33(3) OF INSOLVENCY AND BANKRUPTCY CODE,
2016.

ORDER

1. Mr. Rushabh Sheth a/w Mr. Pratik Amin, Ld. Counsel for Applicant present (VC). Mr. Pratik Poojary i/b Pratik Amin for the Applicant present physically.
2. **IA-103/2024:** This is an Interlocutory Application filed on 01.10.2024 by Mr. Uttam Tekriwal, Resolution Professional of the Corporate Debtor under Section 33(2) of Insolvency and Bankruptcy Code, 2016, seeking liquidation of **Palavi Dealers Private Limited** [CIN: U51109MH2007PTC251232].
3. This Tribunal vide an order dated 11.01.2024 in Company Petition (IB)-3236(MB)/2019, filed under Section 9 of the IBC, 2016 by **V. Singhi & Associates** (hereinafter referred to as the “Operational Creditor”) admitted the Petition and Corporate Insolvency Resolution Process (CIRP) was commenced against Palavi Dealers Private Limited (hereinafter referred to as the “Corporate Debtor”). The applicant herein was appointed as Interim




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Resolution Professional by this Tribunal vide the admission order dated 11.01.2024. He was later appointed as Resolution Professional (RP) of the Corporate Debtor by the CoC in its First meeting held on 15.02.2024.

4. The Applicant submits that upon receiving the copy of the admission order dated 11.01.2024, the Applicant made public announcement in Form A on 18.01.2024 in two local newspapers viz. 'Financial Express' (*English*) and 'Lakshadweep' (*Marathi*) inviting claims from all the Creditors of the Corporate Debtor. The Applicant received only one claim from the Operational Creditor who is the Petitioner herein. As there was no other claim received from any other Creditors till the last date given for submission of claims, after receiving the claim from the single Operational Creditor, he constituted CoC with only one Operational Creditor viz. V. Singhi & Associates. Thereafter, the First meeting of the CoC was held on 15.02.2024 in which the IRP was appointed as RP.
5. After convening the First CoC meeting, the RP received a claim on 06.03.2024 from a Financial Creditor viz. Tata Motors Finance Ltd. The RP accepted the claim of the Financial Creditor. Thereafter, Second CoC meeting was held on 29.03.2024. The RP informed the meeting regarding receipt of a new claim from the Financial Creditor which is under verification. Also discussed various matters including inviting Expression of Interests (EoI). Accordingly, the Applicant published Form G in two local newspapers viz. 'News Hub' (*English*) and 'Pratahkal' (*Marathi*) on 24.04.2024 inviting EoIs from Prospective Resolution Applicants (PRAs).

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6. In the Third CoC meeting held on 14.05.2024 the Operational Creditor and Tata Motors Finance Ltd. attended the meeting. The RP apprised the meeting that the claim of Tata Motors Finance Ltd. is verified and admitted. As a result, the CoC would be reconstituted. After reconstitution of the CoC, Fourth meeting was held on 02.07.2024. As the newly added member is the Financial Creditor, the Operational Creditor was removed from the CoC and Tata Motors Finance Ltd. became the sole-CoC member.
 7. In the Fourth meeting, the Applicant informed that no response has been received towards the Form G published on 24.04.2024 from any potential resolution Applicant. Since no response for the Form G, the CoC decided not to go for further publication of Form G as lack of interest from the potential resolution Applicants will incur unnecessary cost without any progress in the process. Therefore, the CoC decided to go for liquidation of the Corporate Debtor. The CoC accordingly passed the following resolution with 100% voting:

“RESOLVED THAT since no Resolution Plan being received, initiation of Liquidation Process of the Corporate Debtor be and is hereby decided by the Committee of Creditors and necessary application be moved to the Adjudicating Authority”.

“RESOLVED FURTHER THAT authorization of Mr. Uttam Tekriwal, Resolution Professional for filing necessary Application before the Adjudicating Authority for initiation of Liquidation Process of the Corporate Debtor be and is hereby approved by the Committee of Creditors”.

“RESOLVED FURTHER THAT the plan under Regulation 39B (3) of the CIRP Regulations for providing Rs.1,97,136/- as contribution by the Financial Creditor towards gap between the Liquidation Costs and value of


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Liquid Assets available, be and is hereby approved by the Committee of Creditors”.

During the CIRP of the Corporate Debtor, the RP convened a total of 4 CoC meetings.

8. Considering the facts and circumstances as submitted by the Applicant in the Application and by the Counsel appearing for the Applicant, this Bench is of the considered view that the Corporate Debtor be liquidated. Accordingly, this Bench orders that -
- a. The Corporate Debtor viz. **Palavi Dealers Private Limited** (CIN: U51109MH2007PTC251232) is ‘under liquidation’ w.e.f. the date of this order.
 - b. Mr. Umesh Balaram Sonkar, an Insolvency Professional, having IBBI Registration No. IBBI/IPA-001/IP-P02619/2021-2022/14043, email: rosonkar1603@gmail.com, is hereby appointed as the ‘Liquidator’ to conduct liquidation process of Palavi Dealers Private Limited as provided under Section 34(1) of the Code.
 - c. The Liquidator would be entitled to the fees as mutually agreed between the Liquidator and the CoC or as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016 to conduct the liquidation proceedings.
 - 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.

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- 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.
 - f. 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.
 - g. The Corporate Debtor is 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.
 - h. All the powers of the Board of Directors, key managerial personnel, the partners of the Corporate Debtor hereafter cease to exist and have effect.
 - 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. 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 u/s 33(5) of the Code.

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- k. 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.
- l. Moratorium declared vide Order dated 11.01.2024 in CP(IB)-3236(MB)/2019, henceforth ceases to exist.
- m. The Liquidator shall submit the progress report of liquidation periodically.
9. The CoC is directed to clear all dues payable to the Resolution Professional before handing over his charge to the newly appointed Liquidator.
10. With the above directions, the IA-103/2024 in CP(IB)-3236(MB)/2019 filed u/s 33 of the IBC, 2016 by the Applicant is hereby **allowed** and disposed of.

Sd/-
SANJIV DUTT
Member (Technical)

Sd/-
KISHORE VEMULAPALLI
Member (Judicial)