



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

ITEM No. 40

IA/875(AHM)2022 in CP (IB) No. 263 of 2020

Order under Section 33 r.w 34 IBC, 2016

IN THE MATTER OF:

Mukesh Ramjibhai Dayani RP for
Hitkari Packaging Private Limited

.....Applicant

Order delivered on: 10/01/2023

Coram:

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

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

-SD-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

-SD-

DR. MADAN B GOSAVI
MEMBER (JUDICIAL)



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

IA/875(AHM)2022 in CP (IB) No. 263 of 2020

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

In the Matter of:

Mr. Mukesh Ramjibhai Dayani,

Resolution Professional of

M/s. Hitkari Packaging Private Limited

Having its office at:

302, Laxmi Enclave-1,

Opp. Gajera School,

Katargam, Surat-395004

....Applicant

In the Matter of:

CP (IB) No. 263 of 2022

[An application under section 9 of the Insolvency and Bankruptcy Code, 2016]

Fakirsons Papchem Pvt. Ltd.

Versus

Hitkari Packaging Pvt Ltd.

**Order Reserved on: 20.12.2022
Order Pronounced on: 10.01.2023**

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

Appearance:

For the Applicant : Mr. Harmish K Shah, Advocate



ORDER

1. The instant application is filed by Mr. Mukesh Ramjibhai Dayani- the Resolution Professional of the Corporate Debtor - M/s. Hitkari Packaging Private Limited under section 33 read with section 34 of the Insolvency and Bankruptcy Code, 2016 (“IBC, 2016”) for liquidation of the Corporate Debtor-M/s. Hitkari Packaging Private Limited.

2. Learned Counsel for the Applicant appeared and made the averments which are summarised as under:

I. This Adjudicating Authority by its order dated 31.05.2022 admitted the Corporate Debtor in the Corporate Insolvency Resolution Process (“CIRP”) in an application filed by the Operational Creditor – Fakirsons Papchem Pvt. Ltd., under section 9 of the IBC, 2016. Mr. Mukesh Ramjibhai Dayani (the Applicant herein) was appointed as Interim Resolution Professional (“IRP”).

II. The IRP made a public announcement in Form-A in the newspaper i.e., “Indian Express” in English and “Lok Satta” in Gujarati on 12.06.2022 wherein the last date of submission of claims was 25.06.2022. Thereafter, the IRP collated the claims and constituted the Committee of Creditors (“CoC”) comprising of Indian Bank (Erstwhile Allahabad Bank), having 100% voting shares.

III. The first meeting of the CoC was held on 07.07.2022 wherein the CoC with 100% voting rights resolved to appoint IRP-Applicant herein to act as Resolution Professional (“RP”). In the said meeting, the CoC discussed that the Indian Bank has no possession of any of the assets of the Company. All assets of the Company are sold/auctioned by the Bank as is where is and whatsoever there is basis to the Successful Bidder. It is also noted by Bank/CoC that the IRP has visited and witnessed that the possession of the assets including Plant and Machinery of the Company situated at Plot No. 339-340, GIDS Estate, Waghodia has been handed over to the buyer and the



Registered Office is a part and parcel of the above-mentioned plot. The CoC also informed that the Plant and Machinery of the Company had already been auctioned by the Bank and the possession had been handed over to the Successful Bidder before the initiation of the CIRP proceeding i.e., 31.05.2022.

IV. In the 2nd CoC meeting dated 18.08.2022 the agenda for the appointment of two Registered Valuers to determine the liquidation value and fair value of the Corporate Debtor was approved. However, the agenda for the appointment of a Forensic/Transaction Auditor and publication of Form-G was deferred.

V. In the 3rd meeting of the CoC dated 14.09.2022, the agenda for the appointment of the Forensic/Transactional Auditor was rejected by the CoC. In the said meeting it is mentioned that as per the discussion with Mr. Bhoopendra Singh an Authorised Representative of the CoC Member, M/s. Indian Bank (erstwhile Allahabad Bank), SAM Branch, Ahmedabad, the Corporate Debtor has no asset and there are no chances of revival of the Corporate Debtor. Therefore, the CoC has decided to proceed for the liquidation of the Corporate Debtor. The resolution to liquidate the Corporate Debtor was put to vote and the same was approved with 100% votes.

VI. In the 4th meeting of the CoC dated 11.10.2022, the CoC resolved to appoint Mr. Mukesh R. Dayani - Applicant herein as Liquidator and monthly remuneration of Rs. 44,000/- was fixed for the liquidator in view of Regulation 34 of Insolvency and Bankruptcy Board of India (Insolvency Process for Corporate Person) Regulations, 2016. The Applicant has given his consent in Form-B to act as Liquidator.

3. We have heard the learned counsel for the Applicant and perused the material available on record. It is noted that the corporate debtor was admitted into CIRP by the Adjudicating Authority vide order dated



31.05.2022. Mr. Mukesh Ramjibhai Dayani was appointed as an IRP. The CoC comprising of the sole member i.e., Indian Bank (Erstwhile Allahabad Bank) was constituted with 100% voting shares. Further, the CoC in its 3rd meeting dated 14.09.2022 resolved to liquidate the Corporate Debtor, since there were no assets to be realized and the revival of the Corporate Debtor was also not possible.

It is also noted that the CoC in its 4th meeting dated 11.10.2022 proposed the Resolution Professional to act as liquidator and the consent of the resolution professional for the same is also placed on record.

4. Considering the above, we are of the view that the present application deserves to be allowed and hence by invoking the provisions of section 33 of the Insolvency & Bankruptcy Code, 2016, we allow the present application with the following directions:

(i) IA 875 of 2022 is allowed and the Corporate Debtor-M/s Hitkari Packaging Private Limited is ordered to be liquidated in terms of the provisions of the IBC, 2016.

(ii) The liquidation of the corporate debtor is effective from the date of this order and the moratorium declared vide order dated 31.05.2022 in CP(IB) No. 263 of 2020 henceforth ceases to exist.

(iii) As per Section 34(1) of the IBC, 2016, the Applicant/Resolution Professional, Mr. Mukesh Ramjibhai Dayani (Registration No. IBBI/IPA-002/IP-N01138/2021-2022/13915) is hereby appointed as a Liquidator of the Company – Hitkari Packaging Private Limited. 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) Regulations, 2016.

(iv) Public Notice shall be issued in the same newspaper i.e., “Indian Express” and “Lok Satta”, stating that the Corporate Debtor is in liquidation.



(v) 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.

(vi) The peronnel(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, further, the Liquidator shall also provide all co-operation to the various Government agency(s)/ authority(s) in ongoing investigations/inquiry or inquiries initiated hereafter.

(vii) That once liquidation process initiated subject to Section 52 of the Code, no suit or legal proceedings shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute the suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority as mentioned in Sub-section 5 Section 33 of the IBC, 2016.

(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) The registry is directed to upload this order on the official website within two working days from the date of this order. The authenticated copy of this order be sent by the Registry to the Financial Creditor, Corporate Debtor, Registrar of Company, Resolution Professional and Liquidator by Speed-post within one week from the date of this order.

5. Accordingly, IA/875(AHM)2022 is allowed and disposed of.

**-SD-
KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)**

**-SD-
DR. MADAN B GOSAVI
MEMBER (JUDICIAL)**

Rajeev Kr. Sen/Stenographer