

NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH  
COURT- V

36) IA/476/2021  
C.P. (IB)/3065(MB)2019

CORAM:

SMT. ANURADHA SANJAY BHATIA  
Member (Technical)

SMT. SUCHITRA KANUPARTHI  
Member (Judicial)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **10.02.2022**.

NAME OF THE PARTIES: KATYAYAN MERCANTILE AND TRADING PVT  
LTD  
V/s  
ANISH TRADING & MERCANTILE PVT LTD

APPLICATION FILED UNDER ANY OTHER PROVISIONS-IBC

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**ORDER**

**IA 476 of 2021:**

1. This is an application filed for liquidation of Corporate Debtor under Section 33 of the Code. Corporate Debtor was admitted into the CIRP vide order dated 08.11.2019 in CP No. 3065 of 2019. It was brought to our notice that during the 6<sup>th</sup> meeting held on 28.12.2020, CoC recommended to initiate liquidation of the Corporate Debtor company. The Resolutions passed for the liquidation of the Corporate Debtor and appointment of liquidator which is as follows:

*“RESOLVED THAT, pursuant to the provision of Section 33 (1)(a) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and other applicable provisions, sections, rules (including any statutory modifications or re-enactment thereof for the time being in force), the consent of the Committee of Creditors of Anish Trading & Mercantile Private Limited (the Company) be and is hereby accorded to liquidate the Company;*

Appointment of liquidator:

*“RESOLVED THAT Pursuant to Section 34 of the Insolvency and Bankruptcy Code, 2016 the Committee of Creditors hereby appoints Ms. Rajshree Padia having Registration No. IBBI/IPA-002/IP-N00119/2017-18/10288 to act as Liquidator of Corporate Debtor for a professional fees of Rs. 2,50,000/-.”*

*RESOLVED FURTHER THAT after the appointment of liquidator all the powers of board of directors, Key managerial personnel and the partner of the corporate debtor shall cease to have effect and shall be vested with the liquidator.”*

2. CoC has also resolved to appoint Ms. Rajshree Padia as liquidator. However, due to some other engagements RP was not in a position to continue as Liquidator and sought withdrawal of consent and hence, CoC has filed fresh Form-2 and appointed Mr. Anil Kashi Drolia, Insolvency Professional (Reg No. IBBI/IPA-001/IP-P-02327/2020-2021/13482) as Liquidator. The CoC passed following resolution in the 7<sup>th</sup> CoC meeting:

*“RESOLVED THAT Mr Anil Kashi Drolia, Insolvency Professional (Reg No IBBI/IPA001/IP-P-02327/2020-2021/13482) be and is hereby appointed as the Liquidator in place of existing liquidator Ms. Rajshree Padia subject to the remuneration as decided between the Liquidator and COC.*

3. This Bench notes that no formal EOI from the prospective resolution applicant has been received pursuant to the publication of Form-G on 11.01.2020. Hence, the CoC has resolved to liquidate the Corporate Debtor.
4. This Bench approves the liquidation of the Corporate Debtor and appoints Mr. Anil Kashi Drolia as the liquidator in the present matter.

5. It is to be noted that the fees of the liquidator may be affected as per the regulation.
  
6. On hearing the submissions of the Applicant and on reading the Application and the documents enclosed therein, for the RP has complied with the procedure laid under the Code read with Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (Regulations), we are of the view that this case is fit to pass liquidation order under sub-section 1 of section 33 of the Code as no resolution plan has been submitted before the Adjudicating Authority by the Resolution Professional, and accordingly, this Bench orders;
  - a. that 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.
  - b. that the Resolution Professional herein is hereby appointed as Liquidator as provided under Section 34(1) of the Code.
  - c. 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.
  - d. that 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.
  - e. that the Liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by the IBBI and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.
  - f. that 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 proceeding on behalf of the corporate debtor with prior approval of this Adjudicating Authority.

g. 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.

7. IA 476 of 2021 is **allowed** and disposed of with above directions.

SD/-

ANURADHA SANJAY BHATIA  
Member (Technical)

SD/-

SUCHITRA KANUPARTHI  
Member (Judicial)

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