



IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT II

IA. No. 642/2023

In
CP(IB)No.3639/MB/C-II/2019

*Application filed under section 33(1) (a) r/w 60(5)
of Insolvency and Bankruptcy Code, 2016 & Rule
11 of the National Company Law Tribunal Rules,
2016*

Mr. Kamal Kishor Gurnani

Resolution Professional of

Shree Gajanan Agro Farms Private Limited

...Applicant

In the matter of

Bank of India

...Financial Creditor

V/s

Shree Gajanan Agro Farms Private Limited

...Corporate Debtor

Order Pronounced on :- 17.03.2023

Coram:

Hon'ble Member (Judicial) : Kuldip Kumar Kareer

Hon'ble Member (Technical) : Mr. Shyam Babu Gautam



Appearances (through video conferencing)

For the Applicant

: Ms. Prajakta Menezes, Advocate

ORDER

Per- Shyam Babu Gautam, Member Technical

1. It is an application filed u/s 33(1) (a) & 60(5) of the Insolvency & Bankruptcy Code, 2016 (Code) r/w Rule 11 of the National Company Law Tribunal Rules, 2016 by Mr. Kamal Kishor Gurnani (RP) of Shree Gajanan Agro Farms Private Limited seeking liquidation order and appointment of Applicant/RP as liquidator, based on the resolution passed by the CoC in its 9th meeting held on 07.02.2023 with a requisite majority as contemplated under I&B Code, 2016.
2. The Company Petition 3639 of 2019 was filed by the Financial Creditor under section 7 of the Code and was admitted by this Tribunal on 06.05.2022 and Corporate Insolvency Resolution Process (CIRP) was initiated and the Applicant herein was appointed as IRP and subsequently with the approval of the CoC was appointed as Resolution Professional by this Tribunal. A public announcement was made by the RP on 09.05.2022 in Times of India (English) and Kesari (Marathi).
3. In the 2nd CoC meeting held on 24.06.2022, the members of the CoC approved publication of form G for invitation for expression of interest (EoI) and also accorded approval for issuance of the Request for Resolution Plan (RFRP) and Evaluation Matrix (EM) to the Prospective Resolution Applicants (PRA)



4. Further, Form G for invitation of Expression of Interest (EoI) was published in the Times of India (English) and Kesari (Marathi) on 30.06.2022 in Kolhapur and also on 30.06.2022 in Sindhudurg.
5. In the third CoC meeting held on 08.08.2022 it was informed by the RP that the Form G for invitation for EoI was published. The fourth CoC meeting of the CoC was held on 12.09.2022 wherein the RP apprised the members of CoC that the last date for submission of Resolution Plan as per the timeline of Form G was 13.09.2022 and the prospective Resolution Applicants have requested the Resolution Professional to further extend the last date for submission of Resolution Plan. The Applicant received the Resolution Plan on 12.09.2022 i.e. Sunrise Industries Limited.
6. The last date for submission of Resolution Plan as per the timeline of Form G was 13.09.2022. In the fifth CoC meeting held on 03.10.2022 resolution was passed by the members of CoC to extend the CIRP period by further 90 days. The extension of the CIRP was allowed vide Order dated 01.11.2022. In the sixth COC meeting held on 29.10.2022 the Applicant apprised the members of CoC about the status on receipt of Resolution Plan from the prospective Resolution Applicants on 12.09.2022.
7. The seventh meeting of the CoC was held on 22.11.2022 wherein the Applicant apprised the members that in the last CoC meeting the Plan was legally vetted and observations were shared with the Resolution Applicant and members of the CoC for further consideration.



8. In the eight CoC meeting held on 25.01.2023 the Applicant apprised the members of the CoC that the last date of CIRP of the Corporate Debtor was 31.01.2023 and Bank of India the sole CoC member did not cast its vote and hence was concluded that the members abstained on the Resolution.
9. In the ninth CoC meeting held on 07.02.2023 the members unanimously approved the liquidation of the Corporate Debtor.
10. In the ninth CoC meeting held on 07.02.2023, after due discussions the members of the CoC unanimously with 100% voting share passed a resolution for Liquidation of the Corporate Debtor and to appoint the Applicant, to act as liquidator. The relevant extract of the resolution passed in 9th CoC meeting is as follows:

“RESOLVED THAT, the consent of the members of Committee of Creditors be and is hereby accorded for Liquidation of the Corporate Debtor under Section 33 of the Insolvency and Bankruptcy Code, 2016”

“RESOLVED THAT the consent of members be and is hereby accorded to appoint Mr. Kamal Kishor Gurnani as the Liquidator of the Company and be paid a fee as per Regulation 4 (2) (b) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. .”

“RESOLVED FURTHER THAT Mr. Kamal Kishor Gurnani be and is hereby authorized to make necessary application for Liquidation of the Corporate Debtor under section 33 (1) of the Insolvency and Bankruptcy Code, 2016 and for the appointment of Liquidator in the manner of Shree Gajanan Agro Farms Private



Limited and to do all such act, deeds and things to give effect to the aforesaid resolution. .”

11. Looking at the application and averments, we are of the considered opinion that this is a fit case for liquidation, therefore, we hereby order for liquidation of the company with directions as follows:

- a. The **Mr. Kamal Kishor Gurnani**, holding Registration No. **IBBI/IPA-001/IP-P01463/2018-2019/12338**, is appointed as the Liquidator in terms of Section 34 of the Code;
- b. Registry is directed to communicate this Order to the Registrar of Companies, Pune and to the Insolvency and Bankruptcy Board of India;
- c. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- d. 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 Insolvency and Bankruptcy Code, 2016;
- e. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant rules and regulations.
- f. The Liquidator shall follow up and continue to investigate the



financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.

- g. The liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.
- h. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016;
- i. Copy of this order be sent to the financial creditors, corporate debtor, the Liquidator for taking necessary steps.

12. The **IA-642/2023** filed by the RP for Liquidation of the Corporate Debtor stands **allowed**.

Sd/-

**SHYAM BABU GAUTAM
(MEMBER TECHNICAL)**

Sd/-

**KULDIP KUMAR KAREER
(MEMBER JUDICIAL)**