

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III**

I.A. 332 OF 2020

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

Filed by

Rajmal Labhchand Mogra

**24, 3rd floor, Bombay Mutual Annex
Building, Rustom Sidhawa Marg, Fort,
Mumbai- 400001**

Resolution Professional of:

Dhanashri Tooling Systems Private Limited

...Applicant

In the matter of

C.P. No. 146 of 2019

**Mr. Ajay Agrawal, Sole Proprietor of
Acropolis Industries,**

**Registered office at Plot No. A-6 & A-7,
Aurangabad, Co-operative Industrial
Estate, MIDC Area, Railway Station Road,
Aurangabad- 431005**

...Operational Creditor

Versus

**Dhanashri Tooling Systems Private
Limited, Registered office at: Room No.
31, Veer Savarkar Colony, Bajaj Nagar,
Waluj, Aurangabad**

Corporate Debtor

Order delivered on: 22.03.2021

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Shri Shyam Babu Gautam, Member (Technical)

Appearance:

For the Resolution Professional: Ms. Sneha Gupta, Advocate

Per: *Shri Shyam Babu Gautam, Member*

ORDER

1. It is an application filed by Resolution Professional, Rajmal Labhchand Mogra seeking liquidation of Dhanashri Tooling Colony, (hereinafter referred as Corporate Debtor) under Section 33(1) (a) and 34 (1) of

Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”), praying for following reliefs:

- a. This Hon’ble Tribunal be pleased to give order under Section 33(2) of IBC for liquidation of the Corporate Debtor.*
- b. This Hon’ble Tribunal be pleased to give direction to the petitioner or COC member to release an amount of Rs. 14,92,122/- to the applicant, the other professional and agencies as per the CIRP sheet*
- c. Any other direction as this Hon’ble Tribunal may fit in facts and circumstances of the present case;*
- d. Cost of the present application.*

2. The counsel for the Applicant submitted that this Tribunal vide an order dated 15.07.2019 in Company Petition No. 146 of 2019 admitted the petition under Section 8&9 of the Code, filed by Mr. Ajay Agarwal (hereinafter referred to as the “Operational Creditor”) and Corporate Insolvency Resolution Process (CIRP) was initiated against Dhanshri Tooling Systems Private Limited, (hereinafter called as the “Corporate Debtor”). The applicant herein was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor by this Tribunal vide this Order. Upon his appointment as the IRP, the applicant published a public announcement of CIRP in Form A dated 19.07.2019 in two newspapers inviting claims from all the creditors of the Corporate Debtor. The Committee of Creditors (CoC) was formed and the 1st meeting was held on 16.08.2019 wherein the CoC approved resolution allowing IRP to continue as Resolution Professional (RP).

3. During the 3rd meeting of the CoC which was held on 19.09.2019, the CoC decided to liquidate the company as the unit is not in operation since long and there are no workers and employees. No Expression of Interest received from prospective resolution applicant, the Committee of Creditors approved the initiation of liquidation of the corporate debtor by passing the resolution and directed the Resolution Professional to file miscellaneous application and seek the further direction and order under section 33(1)(a) and 34(1) of the code from

this Tribunal by passing the following resolution with voting share of 100% of physically present;

“RESOLVED THAT, M/s Dhanashri Tooling System Pvt. Ltd. be Liquidated”

“Further resolved that Resolution Professional be and is hereby authorized to file necessary application with Adjudicating Authority to expediate the process of Liquidation.

All committee of creditors members has voted in favour and resolution passed with 100% majority to take Corporate Debtor to liquidation.

Resolution Professional Mr. Rajmal Mogra Expressed his inability to act as Liquidator for the Corporate Debtor”.

ORDER

We have heard the Applicant and perused all the documents submitted by them. It is observed from the minutes of the 3rd CoC meeting that the CoC has, with 100% majority, decided to liquidate the Corporate Debtor and relying on the settled principle of law regarding the Commercial Wisdom of the CoC, we hereby allow this Interlocutory Application Number 332 of 2020 with the following observations and directions:

- a. **Mr. Pramod Rasam**, having Registration No. IBBI/IPA-001/IP-P00722/2017-18/11259 is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
- b. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
- c. 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.

- d. 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, shall cease to have effect and shall be vested with the liquidator.
- e. 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.
- f. 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.
- g. 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.
- h. 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.
- i. This liquidation order 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.

With the above directions, this application i.e. I.A. No. 332 of 2020 is hereby allowed and disposed of.

Sd/-

SHYAM BABU GAUTAM
MEMBER (TECHNICAL)

Sd/-

H.V. SUBBA RAO
MEMBER (JUDICIAL)