

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH : C-IV**

IA-4556/2023 in CP(IB)-667/MB/2020

Under Section 33(2) of the IBC, 2016

S. Gopalakrishnan

...Applicant/
Resolution Professional

In the matter of

S.P.J. Cargo Pvt. Ltd.

...Operational Creditor

v/s

Blossom Grocery & Foods India Pvt. Ltd.

...Corporate Debtor

Order Pronounced on: **06.12.2023**

Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances:

For the Applicant: Mr. Niraj Shah, Advocate.

ORDER

This is an Interlocutory Application filed on 18.09.2023 by Mr. S. Gopalakrishnan, Resolution Professional, under Section 33(2) of the Insolvency and Bankruptcy Code, 2016, seeking liquidation of **Blossom Grocery & Foods India Private Limited.**

Brief facts of the Application:

1. This Tribunal vide an order dated 06.06.2023 in Company Petition bearing C.P.(IB)-667(MB)/2020 filed under Section 9 of the IBC, 2016, by the Operational Creditor viz. S.P.J. Cargo Private Limited (hereinafter referred to as the "Operational Creditor") is admitted the petition and Corporate Insolvency Resolution Process (CIRP) was initiated on Blossom Grocery & Foods India Private Limited (hereinafter referred to as the "Corporate Debtor"). Mr. S. Gopalakrishnan was appointed as Interim Resolution Professional (IRP) by this Tribunal vide the above admission order. The Applicant herein was appointed as Resolution Professional (RP) of the Corporate Debtor replacing the IRP in the first CoC meeting held on 05.07.2022.
2. The Applicant submits that he made public announcement in two local newspapers viz. *Financial Express* and *Navakal* on 08.06.2023 and received claims from the Creditors. Thereafter constituted Committee of Creditors with sole Member viz. Standard Chartered Bank. Total claims admitted was Rs. 16,59,57,191/- comprising of Financial and Operational creditors.
3. The Applicant submits that he convened the Second CoC meeting on 03.08.2023. However, the sole CoC Member, through an email dated 27.07.2023, requested the RP to proceed with liquidation of the Corporate Debtor as there is no activity going on in the company and the company has only the land and building. Further, the books of accounts are not prepared since Financial Year 2018-19 and the Annual Returns are not filed with the Ministry of Corporate Affairs.

4. In view of the decision of CoC to proceed with liquidation of the Corporate Debtor, the following resolution was passed with 100% voting of the sole Member:

“RESOLVED THAT consent of members of CoC be and is hereby accorded to approve the Liquidation of the Corporate Debtor u/s 33(2) of the Insolvency and Bankruptcy Code, 2016 and any other applicable provisions.”

“RESOLVED FURTHER THAT the Committee of Creditors be and is hereby authorized to apply and intimate the Hon’ble Adjudicating Authority decision of the Committee of Creditors to liquidate the Corporate Debtor and obtain the order of liquidation”.

5. 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. Blossom Grocery & Foods India Private Limited (CIN: U52100MH2007PTC172502) is ‘under liquidation’ w.e.f. today.
- b. The CoC recommended the present RP to be appointed as Liquidator of the Corporate Debtor and passed a resolution accordingly. However, this Bench is of the opinion that a new professional to be appointed as Liquidator for smooth conduct of the liquidation process. Accordingly, Mr. Gaurang Chhotalal Shah (Registration Number: IBBI/IPA-002/IP-N00947/2019-2020/13002), is hereby appointed as the ‘Liquidator’ to conduct liquidation process of Blossom Grocery &

Foods India 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. The Liquidator to send this order to the RoC under which this Company has been registered.
- 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, shall cease to have effect and shall be vested with the Liquidator.
- f. The Liquidator is directed to appoint two valuers and obtain an average liquidation value under Regulation 27 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 [IBBI(IRPCP)] for determination of Liquidation value of the assets of the Corporate Debtor in accordance with Regulation 35 of IBBI(IRPCP).
- g. The personnel of the Corporate Applicant are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

- h. On having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceedings 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. 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.
 - j. 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 Applicant except to the extent of the business of the Corporate Applicant continued during the liquidation process by the Liquidator.
 - k. Moratorium declared vide Order dated 06.06.2023 in CP(IB)-667(MB)/2020, henceforth ceased to exist.
 - l. The Liquidator shall submit the progress report of liquidation periodically.
6. With the above directions, the IA-4556/2023 in CP(IB)-667(MB)/2020 filed u/s 33(2) by the Applicant is hereby **allowed** and disposed of.

Sd/-
Anu Jagmohan Singh
Member (Technical)

Sd/-
Kishore Vemulapalli
Member (Judicial)