

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

**I. A. No. 366 of 2021
In
C.P. No. 4658/IB/2018**

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

In the matter of
Reliance Asset Reconstruction Co. Ltd.
... Financial Creditor

V/s.
Kosak Engineering and Rubber Products
Pvt. Ltd.
... Corporate Debtor

I.A. No. 366/2021

Mr. Pankaj Sham Joshi
... Applicant/
Resolution Professional

Order delivered on 26.03.2021

Coram:

Hon'ble Shri H. V. Subba Rao, Member (Judicial)
Hon'ble Shri Shyam Babu Gautam, Member (Technical)

Appearance (through video conferencing):

For the Applicant: Mr. Nikhil Rajani, Advocate
Mr. Pankaj Sham Joshi,
Applicant/ Resolution Professional- in Person

Per Shri H. V. Subba Rao, Member (Judicial)

ORDER

1. This is an application filed by the Resolution professional seeking liquidation of the Corporate Debtor namely (M/s. Kosak Engineering and Rubber Products Pvt. Ltd.) on the ground that no resolution plan has been received by him, hence this application under Section 33 (1) of the Insolvency and Bankruptcy Code, 2016, praying following reliefs:

- a. *To pass an order to liquidate the Corporate Debtor in accordance with Chapter III of the Insolvency and Bankruptcy Code, 2016;*

Sr. No.	Particular	Fair Value for Land & Building and Plant & Machinery (In INR)	Liquidation Value for land & Building and plant and Machinery (in INR)
1	Average of Land Building	2,75,05,000	1,99,03,500
2	Average of Plant Machinery	54,73,500	34,27,000
	Average	3,29,78,500	2,33,30,500

6. The CoC in the 2nd CoC meeting held on 14.01.2020 was informed in the meeting that there are no chances of revival of the Corporate debtor Company as corporate debtor is not a going concern. Therefore, the CoC in its wisdom passed the following Resolution;

“RESOLVED THAT the process for liquidation under section 33(1)(a) be initiated against the Corporate Debtor.”

7. Hence, the CoC in its 2nd meeting held on 14.01.2020, unanimously with 100% passed a resolution for liquidating the company. Accordingly, the Resolution Professional filed this application for liquidation of the Company as provided u/s. 33 of the Insolvency & Bankruptcy Code, 2016 (Code).
8. The Applicant/ Resolution Professional Mr. Pankaj Sham Joshi, has agreed to act as liquidator and given consent to carry on the process of liquidation.
9. Upon hearing the submissions of the Applicant and on the perusal of the Application and the documents enclosed therein it is found, the RP has complied with the procedure laid down under the Code; Regulations made thereunder. The reasons assigned in the petition with regards to taking the decision of liquidation of Corporate Debtor by CoC appears to be genuine and convincing as the Corporate Debtor is not a going concern. On verification, we are of the considered view that this is a fit case to pass liquidation order under sub-section 1 of section 33 of the Code for liquidation in the absence of any resolution plan. Accordingly, we pass the following:

ORDER

- a. The I. A. No. 366 of 2021 is hereby allowed.
- b. **Mr. Pankaj Sham Joshi**, Registration No. IBBI/IPA-002/IP-N00507/2017-2018/11556, herein is hereby appointed as Liquidator as provided under Section 34(1) of the Code.
- c. 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.
- 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.
- 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. 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.
- g. 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.
- h. 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.

- i. 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.
- j. 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.
- k. The I. A. No.366 of 2021 is hereby allowed and disposed of.

Sd/-

SHYAM BABU GAUTAM
MEMBER (TECHNICAL)

Sd/-

H. V. SUBBA RAO
MEMBER (JUDICIAL)