

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

IA-4593/2023 in CP(IB)-1443/MB/2020

Under Section 33(2) of the IBC, 2016

Satish Kumar Gupta

...Applicant/
Resolution Professional

In the matter of

Vikash Parasprampuria

...Operational Creditor

v/s

Bombay Rayon Fashions Limited

...Corporate Debtor

Order Pronounced on: **09.11.2023**

Coram:

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

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances:

For the Applicant: Mr. Siddharth Ranade a/w Ms. Nishi Bhankaria,
Ms. Kanika Sharma i/b Trilegal, Advocates.

For CoC : Ms. Somya i/b T N Tripathi & Co., Advocates.

ORDER

This is an Interlocutory Application filed on 29.09.2023 by Mr. Satish Kumar Gupta, Resolution Professional, under Section 33(2) of the Insolvency and

Bankruptcy Code, 2016 Regulations, 2016, seeking liquidation of **Bombay Rayon Fashions Limited**.

Brief facts of the Application:

1. This Tribunal vide an order dated 07.06.2022 in Company Petition bearing C.P.(IB)-1443(MB)/2020 filed under Section 9 of the IBC, 2016, by the Operational Creditor viz. Vikash Parasprampuria (hereinafter referred to as the "Operational Creditor") is admitted the petition and Corporate Insolvency Resolution Process (CIRP) was initiated on Bombay Rayon Fashions Limited (hereinafter referred to as the "Corporate Debtor"). Mr. Santanu T. Ray 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 26.07.2022. The same was confirmed by this Tribunal vide order dated 04.08.2022.
2. The RP submits that, he issued an advertisement in Form G on 05.10.2022 in '*Navshakti*', '*Free Express*', '*Vijayavani*' and '*Business Standard*'; inviting Expression of Interests (EoI) from Prospective Resolution Applicants (PRAs) for submitting Resolution Plans for the Corporate Debtor. However, no EoI was received as per the eligibility criteria, from any PRAs by the RP as on last date stipulated for receipt of EoI i.e. 21.10.2022.
3. After expiry of 180 days of CIRP, extension was availed for 90 days. Thereafter, additional 60 days extension also taken for getting EoIs from PRAs after extending the time limit for submission of EoIs.
4. As no EoIs were received despite multiple extensions of time for submitting the EoIs, in the Ninth CoC meeting held on 13.01.2023, CoC

formulated the categories of assets of the Corporate Debtor and decided by 99.77% voting share to invite resolution plans as per the provisions of Regulation 36B(6A) of the CIRP Regulations. Accordingly, fresh Form G and EoI were issued on 27.01.2023 for separate categories of assets of the Corporate Debtor specifying the last date of submission of EoIs as 13.02.2023. Thereafter, the deadline was extended to 20.02.2023 and subsequently to 27.12.2023.

5. Based on the fresh invitation, 13 EoIs were received and the Applicant published the final list of PRAs on 15.03.2023. Subsequently, RFRP with Evaluation Matrix were issued to the PRAs requesting for submission of resolution plans latest by 14.04.2023, which was extended to 02.05.2023. Multiple resolution plans were received for eight categories of assets of the Corporate Debtor, which were presented to the CoC in its 16th meeting held on 17.05.2023. CoC decided to review the plans.
6. Meanwhile, the CIRP period was extended twice for a total of 150 days beyond 180 statutory period for CIRP. As the CIRP was not completed, the CoC recommended for seeking further extension of 90 days, which was granted by the Tribunal vide order dated 05.06.2023 and the CIRP period was extended till 02.09.2023.
7. In the 20th CoC meeting held on 29.08.2023, the CoC informed that all the resolution plans received have reviewed and evaluated and found none of them feasible and commercially viable. Further, none of the PRAs are willing to revise their plans. Therefore, the CoC decided to reject all the resolution plans, with 90.66% of voting share.

8. In view of the CoC's rejection of all the resolution plans as set out above, the CoC in its 21st meeting held on 01.09.2023 opined that liquidation was the only course of action that is available for the Corporate Debtor. In the commercial wisdom of the CoC, they decided to initiate liquidation of the Corporate Debtor and accordingly a resolution was passed with 99.77% of the voting share. The resolution passed by the CoC is reproduced below:

“RESOLVED THAT the Committee of Creditors hereby approves the liquidation of the Corporate Debtor, Bombay Rayon Fashions Limited (BRFL), under Section 33(2) of the Insolvency and Bankruptcy Code 2016.”

“RESOLVED FURTHER THAT the Committee of Creditors hereby authorizes the Resolution Professional to undertake all such actions/ do all such things, sign all such documents/ letters etc. as may be required and necessary to give effect to the aforesaid actions.”

9. The CoC also recommended the appointment of Truvisory Insolvency Professionals Private Limited (IPE), to act as the Liquidator of the Corporate Debtor and passed Resolution with 99.77% voting share.

“RESOLVED THAT the Committee of Creditors hereby approves the appointment of Truvisory Insolvency Professionals Private Limited (IPE) (Registration Number: IBBI/IPE-0103/IPA-02/2022-23/50020) to act as the Liquidator of the Corporate Debtor.

RESOLVED FURTHER THAT the Committee of Creditors hereby authorizes the Resolution Professional to undertake all such actions/ do all such things, sign all such documents/ letters etc. as may be required and necessary to give effect to the aforesaid actions.”

10. The proposed Liquidator has given its Letter of Consent to act as Liquidator of the Corporate Debtor.

11. 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. Bombay Rayon Fashions Limited (CIN: L17120MH1992PLC066880) is 'under liquidation' w.e.f. today.
 - b. M/s. Truvisory Insolvency Professionals Private Limited (IPE) (Registration Number: IBBI/IPE-0103/IPA-02/2022-23/50020), is hereby appointed as the 'Liquidator' to conduct liquidation process of Bombay Rayon Fashions 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 07.06.2023 in CP(IB)-1443(MB)/2020, henceforth ceased to exist.
 - l. The Liquidator shall submit the progress report of liquidation periodically.
12. With the above directions, the IA-4593/2023 in CP(IB)-1443(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)