



**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**DIVISION BENCH**  
**COURT - 1**

ITEM No.6

IA/1061(AHM)2022 in CP(IB) 135 of 2020

**Proceedings under Section 33 r.w 34(4)(a) IBC,2016**

**IN THE MATTER OF:**

Lalitkumar Vithaldas Raithatha RP For Rashmi Yarns Ltd .....Applicant

V/s

Pankaj Jayantilal Mehta & Ors .....Respondents

**Order delivered on: 11/09/2023**

**Coram:**

Mr. Shammi Khan, Hon'ble Member(J)

Mr. Kaushalendra Kumar Singh, Hon'ble Member(T)

**PRESENT:**

For the Applicant :

For the Respondent :

**ORDER**

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

-SD-

**KAUSHALENDRA KUMAR SINGH  
MEMBER (TECHNICAL)**

-SD-

**SHAMMI KHAN  
MEMBER(JUDICIAL)**

**BEFORE THE ADJUDICATING AUTHORITY**  
**NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD BENCH**  
**COURT-1**

**IA/1061/AHM/2022**  
**In**  
**CP(IB)/135/AHM/2020**

*(Application under section 33 and 34(4)(a) of the Insolvency and Bankruptcy Code, 2016)*

**Through:**

**Lalitkumar Vithaldas Raithatha**

Resolution Professional of:  
M/s Rashmi Yarns Limited  
Having its office at:  
A-14/15, Earth Artica,  
Above HDFC Bank, Vasna Road,  
Vadodara,  
Gujarat- 390007

**.....Applicant/Resolution Professional**

**Versus**

**Mr. Pankaj Jayantilal Mehta**

Member of Suspended Management  
406-407, Skyline Wealth Space C 2,  
4<sup>th</sup> Floor, Near Vidhyavihar Station,  
Ghatkopar West,  
Mumbai,  
Maharashtra- 400086

**.....Respondent No. 1**

**Bharati Pankaj Mehta**

Member of Suspended Management  
406-407, Skyline Wealth Space C 2,  
4<sup>th</sup> Floor, Near Vidhyavihar Station,  
Ghatkopar West,  
Mumbai,  
Maharashtra- 400086

**.....Respondent No. 2**

**Lakhabhai Bhikabhai Vagh**

Member of Suspended Management  
A 10, Sajni Row House,  
LP Savani Road, Adajan,  
Surat,  
Gujarat- 395009



**Rajee Lakhbhai Vagh**  
Member of Suspended Management  
A 10, Sajni Row House,  
LP Savani Road, Adajan,  
Surat,  
Gujarat- 395009

.....Respondent No. 3

**ASREC (India) Limited**  
Sole COC Member  
Solitair Corporate Park,  
Building No. 2, Unit No. 201-202B,  
Gr. Floor, Andheri Ghatkopar Link Road,  
Chakala, Andheri (East),  
Mumbai,  
Maharashtra- 400093

.....Respondent No. 4

**In the main matter of:**  
**CP(IB)/135/AHM/2020**

.....Respondent No. 5

*(Application under section 9 of the Insolvency and Bankruptcy Code, 2016)*

**Garden Silk Mills Ltd.**

.....Operational Creditor

**Versus**

**Rashmi Yarns Limited**

.....Corporate Debtor

**Order reserved on: 25.07.2023**  
**Order pronounced on: 11.09.2023**

**Coram: Shammi Khan, Member (J)**  
**Kaushalendra Kumar Singh, Member (T)**

**Appearance:**

For Applicant: Mr. Nipun Singhvi, Adv. a/w Ms. Pragati Tiwari, Adv.  
For Respondent: Mr. Harmish Shah, Adv.

**ORDER**

1. This application is filed on 21.11.2022 by Mr. Lalitkumar Vithaldas Rraithatha, resolution professional of M/s Rashmi Yarns Limited (Corporate



Debtor) under section 33 and 34(4)(a) of the Insolvency and Bankruptcy Code, 2016 (the Code) for initiating the liquidation process of the corporate debtor.

2. The submissions made by the applicant in its application are summarized hereunder:

(i) The operational creditor i.e. Garden Silk Mills Limited had filed an application under section 9 of the Code seeking initiation of the Corporate Insolvency Resolution Process (CIRP) against the corporate debtor, which was admitted by this Adjudicating Authority vide order dated 04.10.2021. The applicant herein was appointed as the Interim Resolution Professional (IRP). The COC in its first meeting dated 01.11.2021 resolved to appoint the IRP as the resolution profession.

(ii) The IRP made a public announcement in Form A on 07.10.2021. Following that IRP constituted the COC consisting of the sole financial creditor namely ASREC (India) Limited having a 100% voting share.

(iii) The COC in its 2<sup>nd</sup> meeting dated 17.12.2021 resolved to issue Form-G. The resolution professional published EOI in Form-G dated 18.12.2021 inviting submission of a resolution plan for the corporate debtor.

(iv) The COC in its 3<sup>rd</sup> meeting dated 30.03.2022 decided to file an application before this Adjudicating Authority for an extension of the CIRP period for a further 90 days. Pursuant to that, the resolution professional filed an application, and the same was allowed by this Adjudicating Authority vide order dated 18.04.2022.

(v) The COC in its 4<sup>th</sup> meeting dated 15.06.2022, decided to reissue Form-G. Accordingly, the resolution professional reissued Form-G on 17.06.2022 and received two EOIs from the prospective resolution applicants (PRA).

(vi) The COC in its 5<sup>th</sup> meeting dated 13.07.2022 decided to file an application for exclusion of 60 days from the CIRP period. Pursuant to that, the resolution professional filed an application, and the same was allowed by this Adjudicating Authority vide order dated 25.07.2022.



(vii) The COC in its 6<sup>th</sup> meeting dated 22.07.2022, resolved and approved the submission of two additional EOIs received after the last date of submission of EOI. Despite giving time and opportunity to PRAs to submit and improve their plan, no economic plans were received. Hence, the COC in its 9<sup>th</sup> meeting dated 14.09.2022 resolved to liquidate the corporate debtor. However, in the 10<sup>th</sup> COC meeting dated 16.09.2022 the resolution professional informed the COC that one PRA namely Shreenathji Rasayan Private Limited requested one more opportunity to improve the proposed plan. In view of this the COC resolved to file an application for extension of the CIRP period for further 90 days. Pursuant to that, the resolution professional filed an application and the Adjudicating Authority vide order dated 12.10.2022 allowed the application and extended the CIRP period for further 45 days.

(viii) The resolution plans finally submitted by three PRAs i.e. (1) Alliance Superfine Industries Limited, (2) Shreenathji Rasayan Private Limited, and (3) Ondot Technologies Private Limited were considered and discussed by the COC. Ultimately, the COC in its 12<sup>th</sup> meeting dated 07.11.2022 were of the view that the resolution plans submitted by the PRAs were substantially of lesser value as compared to the liquidation value, and as a result, the COC resolved for the liquidation of the corporate debtor. The COC in accordance with Regulation 39B of the IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016, resolved and approved the liquidation cost of Rs. 24,80,000/- and further resolved that in case there is any shortfall in meeting the liquidation cost, the same will be contributed by the COC. Further, in accordance with Regulation 39BA and 39C of the IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016, resolved to explore compromise and arrangement of the corporate debtor and to explore the sale of the corporate debtor as a going concern. The COC in the said meeting also resolved to appoint Mr. Ganesh Remani to work as liquidator of the corporate debtor and in accordance with Regulation 39D of the IBBI (Insolvency Resolution



Process for Corporate Person) Regulations, 2016 approved liquidator fees of Rs 1,50,000/- per month. The proposed liquidator has given his consent to be appointed as liquidator of the corporate debtor and the same is placed on record.

3. We have heard the learned counsel for the applicant and perused the relevant documents available on record. It is noted that the corporate debtor was admitted into CIRP vide order dated 04.10.2021. Form-G was published twice by the resolution professional, and in response three resolution plans were considered and discussed. However, the COC in its 12<sup>th</sup> meeting dated 07.11.2022 decided not to consider any resolution plan as the value of the same was on the lesser side. Further, in the same meeting, the COC passed a resolution with 100% votes for the liquidation of the corporate debtor. The COC in the said meeting dated 07.11.2022, in accordance with Regulation 39D and 39B of the IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016, resolved and approved the liquidator fees of Rs 1,50,000/- per month and liquidation cost of Rs 24,80,000/- and further resolved that in case there is any shortfall in meeting out the liquidation cost, the same will be borne by the COC. Resolutions in accordance with Regulation 39BA and 39C are also passed by the COC whereby it was resolved to explore compromise and arrangement of the corporate debtor and to explore the sale of the corporate debtor as a going concern. The liquidation value and fair value of the corporate debtor are Rs 6,50,00,000/- and Rs 8,35,00,000/- respectively.

4. The COC has resolved to appoint Mr. Ganesh Remani as the liquidator of the corporate debtor. IBBI in its letter dated 18.07.2023, has recommended that IP other than the IRP/RP may be appointed as liquidator in all the cases where a liquidation order is to be passed henceforth.

5. In view of the facts and circumstances and documents available on record, we pass the following order:

(i) The corporate debtor M/s Rashmi Yarns Limited shall be put into liquidation in terms of the provisions of section 33(2) of the Code r.w.



Regulations made thereunder which shall be effective from the date of this order. Accordingly, we allow IA/1061/AHM/2022.

(ii) The Moratorium declared under section 14 of the Code shall cease to have effect from the date of the order of liquidation.

(iii) As per section 34(4)(b) of the Code, Mr. Ganesh Ramani having Registration No. IBBI/IPA-001/IP-P01386/2018-2019/12176 is hereby appointed as a liquidator of the corporate debtor i.e. M/s Rashmi Yarns Limited. The liquidator so appointed shall complete the liquidation process as per the provisions of the Code r.w. the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

(iv) All the powers of the Board of Directors, key managerial persons, and the partner of the corporate debtor, as the case may be, hereafter cease to exist. All these power henceforth vest with the liquidator.

(v) The personnel of the corporate debtor are directed to extend all cooperation to the liquidator as required by him in managing the liquidation process of the corporate debtor.

(vi) The liquidator will charge fees for the conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and same shall be paid to the liquidator from the proceed of the liquidation estate under section 53 of the Code.

(vii) Once the liquidation process is initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the corporate debtor. The liquidator has the liberty to institute a suit and other legal proceedings on behalf of the corporate debtor with the prior approval of this Adjudicating Authority, as provided in sub-section (5) of section 33 of the Code.

(viii) This liquidation order shall be deemed to be 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.



(ix) This Adjudicating Authority directs the liquidator to issue a public announcement stating that the corporate debtor is in liquidation. The liquidator will also serve a copy of this order to the various Government Departments such as Income Tax, GST, VAT, etc., who are likely to have any claim upon the corporate debtor so that the authorities concerned are informed of the liquidation order timely. The liquidator will also provide a copy of this order to the trade unions/employee associations of the corporate debtor so that the workman/employees could also be informed of this liquidation order through their association.

(x) The Registry is directed to communicate this order to the concerned Registrar of the Companies, the registered office of the corporate debtor, the resolution professional, and the liquidator by speed post as well as e-mail within one week from the date of this order, after completion of all the formalities.

(xi) The present resolution professional is directed to hand over the relevant documents and control of the corporate debtor to the newly appointed liquidator forthwith.

6. Accordingly, IA/1061/AHM/2022 in CP(IB)/135/AHM/2020 is disposed of.

-sd-

**KAUSHALENDRA KUMAR SINGH**  
**MEMBER (TECHNICAL)**

-sd-

**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**

ANUJ/STENO- KESHAV /LRA