

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

IA. No. 3310/2023

**In
CP(IB)No. 3346/MB/C-II/2019**

*Application filed under section 33(2), 34(1) of
Insolvency and Bankruptcy Code, 2016 r/w
Regulation 4(3) of the Insolvency & Bankruptcy Board
of India (Liquidation Process) Regulations, 2016.*

Mr. Prakash Dattatraya Naringrekar, RP

...Applicant

In the matter of

Bank of Maharashtra

...Financial Creditor

V/s

M/s Nanai Dairy Pvt. Ltd.

...Corporate Debtor

Order Pronounced on :- 13.10.2023

Coram:

Anil Raj Chellan

Hon'ble Member (Technical)

Kuldip Kumar Kareer

Hon'ble Member (Judicial)

Appearances (through video conferencing)

For the Applicant

**: Adv. Chaitanya Nikte a/w Raina
Birla, Adv. Deepali Jaiswal**

ORDER

Per- Kuldip Kumar Kareer, Member Judicial

1. It is an application filed u/s 33(2), 34(1) of the Insolvency & Bankruptcy Code, 2016 r/w Regulation 4(3) of the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016 by Mr. Prakash Dattatraya Naringrekar (RP) of M/s Nanai Dairy Pvt. Ltd. seeking liquidation order based on the resolution passed by the CoC in its 6th meeting held on 14.07.2023 with a requisite majority as contemplated under I&B Code, 2016.
2. On perusal of this application, it appears that this Company Petition (IB)-4455(MB)/2019 was admitted by this Tribunal on 24.01.2023 and the Applicant herein was appointed as IRP and subsequently was appointed as Resolution Professional.
3. Pursuant thereto, Form A was published by the Applicant on 26.01.2023 in newspapers namely, Financial Express (English Edition) and Mumbai Lakshadeep (Marathi Edition) and received two claims from the Financial Creditor. After collating and verifying the claims, the Applicant constituted the Committee of Creditors (CoC) and the list of creditors and report constituting CoC was filed before the Tribunal.

4. Further, the Applicant informed the members of the CoC about a letter received from Adv. Hatle thereby informing about the Auction Notice published for the factory of the Corporate Debtor as CKP Co-operative Bank was undergoing the process of liquidation, hence both the Financial Creditors i.e. Bank of Maharashtra and CKP Co-operative Bank signed a Memorandum of Understanding.
5. The Applicant along with the suspended Director visited the factory premises wherein one room was locked where the relevant financial records of the company were kept with some furniture and other equipments. The Applicant states that no fruitful handover of records and assets was done by the suspended Directors. The Applicant was handed over with only the Audited Balance Sheets from F.Y. 2012-2016 and unaudited Balance Sheet of F.Y. 2017-2018 and also no previous records were handed over. Further the Applicant was also made aware that the registered office of the Corporate Debtor was sold to third party two years back.
6. In the 2nd CoC meeting held on 23.03.2023, the RP proposed to publish Form G for inviting Expression of Interest (EoI) and accordingly Form G was published in Free Press Journal and Navshakti on 25.03.2023.

7. The Applicant states that CKP Co-operative Bank sealed the account of the Corporate Debtor maintained with Dombivli Nagar Sahakari Bank Limited wherein an amount of Rs. 1,46,251/- was lying as on 27.02.2023. Further, pursuant to the publication of Form G, the Applicant had received 2 EoI's. In the 4th CoC meeting held on 08.05.2023, the Applicant had appointed M/s C.P. Jain as Chartered Accountant to conduct the Specific Transaction/Forensic Audit. The Applicant states that the two Prospective Resolution Applicants (PRA's) presented their plans before the CoC, which asked them to modify and submit a financially improvised plan.
8. Further, the Applicant had put forth both the Plans for e-voting before the CoC but both the Resolution Plans were unanimously rejected by the members of the CoC.
9. In the 6th CoC meeting held on 14.07.2023, the Applicant proposed that the CIRP period be extended to invite other Resolution Plans but the same was rejected by the members of the CoC. Hence the members of the CoC decided to initiate liquidation proceedings against the Corporate Debtor since the CIRP period of 180 days was also getting over on 23.07.2023.
10. The relevant extract of the resolution passed in 6th CoC meeting held on 14.07.2023 is as follows:

“RESOLVED THAT, Pursuant to the provision of Section 33 of the Insolvency and Bankruptcy Code, 2016, the approval of Members of

Committee of Creditors be and hereby accorded for Liquidation of Corporate Debtor.”

11. Looking at the application and averments, we are of the considered opinion that this is a fit case for liquidation, therefore, we hereby order for the liquidation of the company with directions as follows:

- a. The **Mr. Prashant Jain**, holding Registration No. **IBBI/IPA-001/IP-P01368/2018-2019/12131**, is appointed as the Liquidator in terms of Section 34 of the Code;
- b. Registry is directed to communicate this Order to the Registrar of Companies, Mumbai and to the Insolvency and Bankruptcy Board of India;
- c. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- d. This order shall be deemed to be a notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- e. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and

Bankruptcy Code, 2016 and in accordance with the relevant rules and regulations.

- f. The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.
- g. The liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.
- h. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016;
- i. Copy of this order be sent to the financial creditors, corporate debtor, the Liquidator for taking necessary steps.

12. The **IA-3310/2023** filed by the RP for Liquidation of the Corporate Debtor stands **allowed**.

Sd/-

ANIL RAJ CHELLAN
(MEMBER TECHNICAL)

Sd/-

KULDIP KUMAR KAREER
(MEMBER JUDICIAL)