

IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH, COURT-5

I.A. 2940 OF 2022

IN

C.P.(IB) 524 OF 2020

Under Section 33 (2) of the Insolvency &
Bankruptcy Code, 2016

Filed by

Mr. Deepak M. Panpaliya

Resolution Professional for:

M/s. Rajmangal Milk and Agro Foods
Pvt. Ltd

..... Applicant

In the matter of

ICICI Bank Limited

..... Financial Creditor

Versus

**M/s. Rajmangal Milk and Agro Foods
Pvt. Ltd.**

..... Corporate Debtor

Order Delivered on: 18.10.2022

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

Appearance:

For the Applicant: Advocate Sahil Memon i/b Link Legal for Resolution
Professional

1. The above application I.A. No. 2940/2022 is filled by the Resolution Professional, Mr. Deepak M. Panpaliya (hereinafter referred as the “**Applicant**”) seeking liquidation of M/s. Rajmangal Milk and Agro Foods Pvt. Ltd. (herein after referred as the “**Corporate Debtor**”) under Section 33 (2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as “**the Code**”), praying the following reliefs:

- a) *“To pass appropriate order(s) for liquidation of the Corporate Debtor under section 33 of the code;*
- b) *To pass appropriate order for appointment of Shri. Ravi Prakash Ganti, (IBBI/IPA-002/IP-NOO102/2017-2018/10245) as the Liquidator of the Corporate Debtor;*
- c) *To pass such other order(s) as the Hon’ble Tribunal may deem fit and appropriate in the facts and circumstances of the case.*

2. The facts of the case are as follows:

A. The Applicant mentions that this Tribunal, vide its order dated 28.03.2022 in Company Petition No. 524/IBC/MB/2020 admitted the petition, under Section 7, of the Code, filed by ICICI Bank Limited (hereinafter referred to as the “**Financial Creditor**”) and Corporate Insolvency Resolution Process (hereinafter referred to as the “**CIRP**”) was initiated against the Corporate Debtor. Under the same Order, this Tribunal appointed Mr. Indrajit Mukherjee as the Interim Resolution Professional (“**IRP**”) of the Corporate Debtor.

B. The Applicant submits that, the IRP on 08.04.2022 made a Public Announcement inviting claims from the Creditors of Corporate Debtor,

in two local newspapers viz. Financial Express (English newspaper) and Loksatta (Marathi newspaper, Pune edition).

- C. The Applicant submits that, the IRP initially received two claims from the Financial Creditors of the Corporate Debtor viz. Bank of India and ICICI Bank Limited, upto 21.04.2022. Based on the said claims as received, the IRP constituted a Committee of Creditors (“CoC”). Accordingly, the IRP filed a report certifying the constitution of the CoC, before this Bench. The Applicant further submits that, thereafter, the IRP received another claim from Hero Fin Corp Ltd., being the Financial Creditor of the Corporate Debtor.
- D. The Applicant submits that the 1st meeting of the CoC was convened on 06.05.2022. In the said meeting, the CoC resolved to appoint the Applicant as the Resolution Professional of the Corporate Debtor. The CoC further resolved that till this Tribunal approves the appointment of the Applicant as a RP, the existing IRP would continue to act as RP.
- E. The Applicant submits that the 2nd meeting of the CoC was convened on 01.06.2022. The members of the CoC resolved to appoint 3 registered valuers, for conducting valuation of Corporate Debtor as per Regulation 27 of IBBI (Insolvency and Resolution Process for Corporate Persons), 2016.
- F. The Applicant submits that, vide Order dated 06.06.2022, of this Tribunal, the Interlocutory Application bearing number 1391 of 2022 for appointment of the Applicant as the Resolution Professional of the Corporate Debtor was allowed by this Bench.
- G. The Applicant submits that the 3rd meeting of the CoC was convened on 17.06.2022. In the said meeting, the CoC resolved to approve the publishing of Form-G inviting Expression of Interest (“EOI”).

Accordingly Form-G was published on 26.06.2022, in two newspapers viz. Financial Express and Loksatta and the last date to submit the invitation for EOI was mentioned as 31.07.2022.

- H. The Applicant submits that, on 22.08.2022, 5th meeting of CoC was convened, wherein it was discussed that, even after the publication of Form-G, the applicant received no Expression of Interests from any Prospective Resolution Applicant. The Applicant further submits that, the CoC members deliberated that the only option was to liquidate the Corporate Debtor since the assets of the Corporate Debtor were very old and activities of the Corporate Debtor were defunct since 2017-2018.
- I. The Applicant submits that the 6th meeting of the CoC was convened on 12.09.2022, wherein the members of CoC resolved to Liquidate the Corporate Debtor, since no EOI was received, as well as the Corporate Debtor is a non-going concern from 2018. The applicant further submitted that in the said meeting, the CoC resolved to appoint Mr. Ravi Prakash Ganti (IBBI registration no. IBBI/IPA-002/IP-N00102/2017-2018/10245) to act as the Liquidator of the Corporate Debtor. The CoC further resolved that the fees of the Liquidator will be as per table given under Regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process Regulations), 2016 plus GST and any other applicable taxes/duties etc. subject to a minimum of Rs. 12 lakhs plus GST. The Applicant further submits that, the proposed liquidator has also provided his consent which is annexed to the application.
3. After hearing the submissions made by the Counsel, appearing for the Applicant and upon perusing the material available on record, and the fact that, no Resolution Plan has been received, and the Corporate Debtor being defunct since 2018, there is no option except to put the Corporate Debtor Company into Liquidation as per the Code. Since it is observed from the minutes of the 6th CoC meeting that the CoC with

required mandate of 100% voting approved to liquidate the Corporate Debtor in view of not getting any Resolution Plans, this Tribunal has very limited judicial review in such matters of commercial wisdom. Therefore, there is no option except to allow the above Liquidation Application. The CoC thereby has appointed Mr. Ravi Prakash Ganti (IBBI registration no. IBBI/IPA-002/IP-N00102/2017-2018/10245) as Liquidator to carry on the process of Liquidation of the Corporate Debtor. The proposed Liquidator has agreed to act as Liquidator to carry on the process of Liquidation and given his consent to act as Liquidator. This bench, therefore feels this is a fit case for ordering Liquidation of the Corporate Debtor. Accordingly, the above Interlocutory Application Number 2940 of 2022 is allowed directing the Liquidation of the Corporate Debtor. Accordingly, we pass the following:

ORDER

- a. The above I.A. 2940 of 2022 is 'allowed' and the Corporate Debtor **Rajmangal Milk and Agro Foods Pvt. Ltd.** is ordered to be liquidated.
- b. Mr. Ravi Prakash Ganti, having Registration No. IBBI/IPA-002/IP-N00102/2017-2018/10245, having office at: Flat no. 2, Ashiana CHS, Plot No. 60-A, Sector-21, Kharghar, Navi Mumbai – 410 210 , is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
- c. That the Liquidator for conduct of the liquidation proceedings would be entitled for fees as per Regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process Regulations), 2016 plus GST and any other applicable taxes/duties etc. subject to a minimum of Rs. 12 Lakhs plus GST.

- 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. 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. 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.
- h. 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.
- i. 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.

With the above directions, this application i.e. I.A. No. 2940 of 2022 is hereby **allowed** and disposed of.

Sd/-

Anuradha Sanjay Bhatia
Member (Technical)

Sd/-

H.V. Subba Rao
Member (Judicial)