



**THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV**

I.A. 2208 OF 2020

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

Mr. Vipul Mittal

Resolution Professional/
...Applicant

In the matter of

C.P.(IB) No. 2823/MB/2019

Punjab National Bank

Financial Creditor

Vs.

Regal Pride Trading & Commercial Private
Limited

Corporate Debtor

Order delivered on: 21.03.2023

Coram:

Mr. Prabhat Kumar
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant/RP

: Ms. Rohini Menon, Advocate

ORDER

Per: Prabhat Kumar, Member (Technical)



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1. The above application I.A. No. 2208/2020 was filed Mr. Vipul Mittal, the then Resolution Professional of the Corporate, who has since deceased and upon his death, Ms. Deepa Gupta (hereinafter referred to as the “Applicant”) was appointed as Resolution Professional by the CoC, which was confirmed by the Adjudicating Authority vide its order dated 21.10.2022. This application was filed on 30.10.2020 seeking liquidation of Regal Pride Trading and Commercial Private Limited (hereinafter referred to as the “Corporate Debtor”) under Section 33 (1) of the Insolvency and Code, 2016 (hereinafter called as “the Code”).
2. The brief facts of the application are as follows:
 - a. The Applicant mentions that this Tribunal vide its order dated 06.12.2019 in Company Petition No. 2823/IBC/MB/2019 admitted the petition under Section 7 of the Code, filed by Punjab National Bank (hereinafter referred to as the “Financial Creditor”) and Corporate Insolvency Resolution Process (hereinafter referred to as the “CIRP”) was initiated against the Corporate Debtor and Mr. Vipul Mittal, was appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal and was appointed as Resolution Professional by CoC. Upon his demise, Ms. Deepa Gupta was appointed as Resolution Professional.



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- b. The erstwhile Director of the Corporate Debtor moved an appeal before the Hon'ble NCLAT vide Company Appeal No. 1453/2019, wherein the Hon'ble NCLAT vide order dated 16.12.2019 has granted stay on the formation of CoC. The settlement talks were going on between the suspended Board and the Original Petitioner, the same was not concluded due to the Financial Creditor did not accept the offer. The Hon'ble NCLAT vide order dated 13.01.2020, vacated the stay in formation of CoC.
- c. Ld. Counsel for the Applicant submits that pursuant to the publication of FORM-G, the Applicant informed that there has been enquires from a few prospective parties. Upon, one of the enquiries, one prospective Resolution Applicant submitted an EOI on 04.09.2020 via email, but the same was incomplete. Therefore, the applicant asked the party to submit the plan in accordance with the standard format.
- d. The Applicant states that the Applicant has conducted the meetings of the CoC in the past 5 occasions, the details are provided hereinunder: -

Sr. No.	Particulars	Date
1.	1 CoC Meeting	28.01.2020
2.	2 nd CoC Meeting	23.06.2020



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3.	3 rd CoC Meeting	28.07.2020
4.	4 th CoC Meeting	14.09.2020 & 15.09.2020
5.	5 th CoC Meeting	09.10.2020

- e. In view of the above facts, the Applicant submits that the Punjab National bank, being the sole member of CoC, passed a resolution to liquidate the company as a going concern in the Fifth CoC Meeting held on 09.10.2020 with 100% voting, and authorized the RP to file liquidation application under Section 33 of the Code. The Resolution passed in the meeting is reproduced hereinunder: -

“RESOLVE THAT, the Corporate Debtor i.e. Regal Pride Trading and Commercial Private Limited be liquidated as per the provision of Section 33 of the Insolvency and Bankruptcy Code, 2016”

3. During the Pendency of this Application, on 28.10.2021, Mr. Kunal Kanungo, Ld. Counsel appearing for CoC submitted that RP Mr. Vipul Mittal passed away. This Bench conveys condolences to the bereaved family of the RP. Thereafter, the CoC filed an Application bearing No. 2361/2022 for appointment of new Resolution Professional in place of Late Mr. Vipul Mittal. This Bench vide



order dated 21.10.2022 confirmed the appointment of Ms. Deepa Gupta to act as new Resolution Professional in the matter.

4. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, this bench is of the opinion that the Corporate Debtor is required to be liquidated in the manner as laid down in the IBC 2016.

ORDER

5. The above I.A. No. 2208/2020 is allowed and the Corporate Debtor Regal Pride Trading & Commercial Private Limited is ordered to be liquidated as a going concern in the first attempt and if it fails, then sale by all other methods shall be considered.
- a. **Ms. Deepa Gupta**, having Registration No. IBBI/IPA-002/IP-N00867/2019-2020/12801, having office at: B-2/110, Sector-16, Rohini, Delhi-110089, is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
 - b. 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.
 - c. 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.



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- d. 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.
- e. 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.
- f. 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.
- g. 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.
- h. 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 Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.



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- i. The liquidator shall be at liberty to pursue pending the Interlocutory Application pertaining to avoidance transactions, if any.
- j. With the above directions, the I.A. No.2208/2020 filed u/s33 (1) by the applicant is hereby allowed and disposed of.

Sd/-

PRABHAT KUMAR
Member (Technical)

Sd/-

KISHORE VEMULAPALLI
Member (Judicial)