

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

**I.A. No. 2362 of 2020
I.A. No. 1283 of 2020
In
C.P. No. 1118/IB/2019**

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

In the matter of
Bank of India ... Financial Creditor

V/s.
Suwarnsparsh Gems and Jewellery Ltd.
... Corporate Debtor

I.A. No. 2362/2020

Mr. Birendra Kumar Agrawal
... Applicant/
Resolution Professional

I.A. No. 1283/2020

Mr. Birendra Kumar Agrawal
... Applicant/
Resolution Professional
V/s.
Vimal Mafatlal Patel & Ors.
... Respondents

Order delivered on 15.02.2020

Coram:

Hon'ble Shri H. V. Subba Rao, Member (Judicial)
Hon'ble Shri Shyam Babu Gautam, Member (Technical)

Appearance (through video conferencing):

For the Applicant: Mr. B. Gopalakrishnan, Advocate

Per Shri Shyam Babu Gautam, Member (Technical)

ORDER

I.A. No. 2362 of 2020

1. It is an application filed by the Resolution professional seeking liquidation of the Corporate Debtor namely (M/s. Suwarnsparsh Gems and Jewellery Ltd.) on the ground that no resolution plan has been received by

him, hence this application under Section 33 (1) of the Insolvency and Bankruptcy Code, 2016, praying following reliefs:

- a. To pass an order under Section 33(2) of the Code for liquidation of the Corporate Debtor Suwarnsparsh Gems and Jewellery Ltd;*
 - b. To appoint the Mr. Birendra Kumar Agrawal as the Liquidator of the Corporate Debtor;*
2. The Adjudicating Authority vide its order dated 22.10.2019 on a Petition filed by the Financial Creditor under Section 7 of the Code directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor namely M/s. Suwarnsparsh Gem and Jewellery Pvt. Ltd., wherein Mr. Birendra Kumar Agrawal, was appointed as Interim Resolution Professional (IRP). Thereafter, in the 1st Committee of Creditors (CoC) meeting held on 28.11.2019, Mr. Birendra Kumar Agrawal, was resolved to be appointed as Resolution Professional (RP). The Bank of India is the sole financial creditor.
3. It is further submitted that an advertisement, inviting Expression of Interest (EoI) in Form G was published on 03.01.2020 in "Free Press Journal" and "Navshakti".
4. The CoC in its 2nd meeting held on 20.12.2019 decided to appoint a Valuer. The RP accordingly appointed two registered valuers as required under Regulation 27 of the IBBI (IRP for Corporate Persons) Regulations, 2016 and the Information Memorandum was prepared as provided under Regulation 36(1) of the said regulation.
5. The RP submits that the in response to the publication in Form G an invitation for Expression of Interest only one Expression of Interest was received from DVN Group. The DVN Group is a firm and all the partners of the firm are related parties of Mr. Vimal Patel, the Promoter/suspended Director of the Corporate Debtor. Thereafter, the prospective resolution applicant was provided with the information, evaluation matrix and others necessary documents and given time submit Resolution plan. But no Resolution Plan was however received within the stipulated period from the above Prospective Resolution Applicant and the bid submitted by the resolution applicant was much lower than expected value of the Corporate Debtor.

6. The CoC in the 6th CoC meeting held on 07.11.2020, it was informed in the meeting that there are no chance of revival of the Corporate debtor Company. The following Resolution was passed;

“Resolved that, in accordance with the Insolvency and Bankruptcy Board of India (Liquidation process) regulations, 2016 and other applicable provisions, sections, rules (including any statutory modifications or re-enactment thereof for the time being in force), the consent of the Committee of “SUWARNASPARSH GEMS AND JEWELLERY LIMITED” (the Company) hereby accorded to liquidate the Company;”

7. Hence, the CoC in its 6th meeting held on 07.11.2020, unanimously with 100% voting rights passed a resolution for liquidating the company. Accordingly, the Resolution Professional filed this application for liquidation of the Company as provided u/s. 33 of the Insolvency & Bankruptcy Code, 2016 (Code).
8. The Applicant/ Resolution Professional Mr. Birendra Kumar Agrawal, has agreed to act as liquidator and given consent to carry on the process of liquidation.
9. Upon hearing the submissions of the Applicant and on the perusal of the Application and the documents enclosed therein it is found, the RP has complied with the procedure laid down under the Code; Regulations made thereunder. The reasons assigned in the petition with regards to taking the decision of liquidation of Corporate Debtor by CoC appears to be genuine in the present market scenario and convincing. On verification, we are of the considered view that this is a fit case to pass liquidation order under sub-section 1 of section 33 of the Code for liquidation in the absence of any resolution plan. Hence ordered;

ORDER

- a. The Interlocutory Application No. 2362 of 2020 is hereby allowed.
- b. **Mr. Birendra Kumar Agrawal**, Registration No. IBBI/IPA-001/IP-P00564/2017-2018/11040, herein is hereby appointed as Liquidator as provided under Section 34(1) of the Code.

- c. 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.
- 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. 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. 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. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.
- h. 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.
- i. 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.

- j. 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.
- k. The Interlocutory Application No. 2362 of 2020 is hereby allowed and disposed of.

ORDER

I.A. No. 1283 of 2020

It is an application filed by the Resolution professional against the Suspended Directors of the Corporate Debtor namely (M/s. Suwarnsparsh Gems and Jewellery Ltd.) under Section 43 read with Section 49 of the Insolvency and Bankruptcy Code, 2016, will continued to be pursued by the Liquidator.

Sd/-
SHYAM BABU GAUTAM
MEMBER (TECHNICAL)

Sd/-
H. V. SUBBA RAO
MEMBER (JUDICIAL)