

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

32. I.A. 1136/2021

M.A. 566/2020

IN

C.P.(IB)-482(MB)/2019

CORAM: SHRI. H.V.SUBBA RAO, MEMBER (J)
SHRI CHANDRA BHAN SINGH, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **02.05.2022**

NAME OF THE PARTIES: Brahmacharini Vyapaar Pvt Ltd

V/s

Champalal Motilal Vyapaar Pvt Ltd

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Ms. Pooja Pandey, counsel appearing for the RP along with
RP Mr. Rajan Rawat, Mr. Manoj Mishra counsel appearing for the Respondent
are present through virtual hearing.

I.A. 566/2020

The above Interlocutory Application bearing No. 566/2020 is allowed detailed
order follows:

List this matter along with all other pending applications on 20.07.2022.

Sd/-
CHANDRA BHAN SINGH
Member (Technical)
SKS

Sd/-
H.V.SUBBA RAO
Member (Judicial)

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

M.A. 566 OF 2020

IN

CP (IB) - 482/MB/2019

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

Filed by

Mr. Rajan Rawat

Resolution Professional for:

Champalal Motilal Steel Company Pvt. Ltd

...Applicant

In the matter of

Brahmacharini Vyapar Pvt. Ltd.

C/o Chinsurah Cold Storage
Khadinamore, Station Road, Chinsurah
WB - 712102

...Operational Creditor

Versus

**Champalal Motilal Steel Company Pvt.
Ltd.**

229, S T Road, Opp. Sant Tukaram
Mandir, Carnac Bunder, Mumbai -
400009

...Corporate Debtor

Order delivered on: 02.05.2022

Coram:

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

Hon'ble Shri Chandra Bhan Singh, Member (Technical)

Appearance:

For the Applicant: Ms. Pooja Pandey, Advocate a/w Mr. Rajan Rawat,
Resolution Professional

1. The above application M.A. No. 566/2020 is filed by Resolution Professional, Mr. Rajan Rawat (hereinafter referred to as the “Applicant”) seeking liquidation of Champalal Motilal Steel Company Pvt. Ltd. (hereinafter referred to as the “Corporate Debtor”) under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”), praying for following reliefs:

- a. To pass the order for Liquidation of the Corporate Debtor;*
- b. To appoint the Applicant, Mr. Rajan Rawat, as Liquidator of the Corporate Debtor, considering the consent given by him to act as such;*
- c. To pass any such other order and further orders as this Hon’ble Tribunal may deem fit and appropriate in the interest of justice.*

2. The brief facts of the application are as follows:

- A. The Applicant mentions that this Tribunal vide its order dated 03.06.2019 in Company Petition No. (IB) 482/MB/2019 admitted the petition under Section 9 of the Code, filed by Brahmacharini Vyapar Pvt. Ltd. (hereinafter referred to as the “Operational Creditor”) and Corporate Insolvency Resolution Process (hereinafter referred to as the “CIRP”) was initiated against Corporate Debtor. Mr. Rajan Rawat was appointed as the Interim Resolution Professional (hereinafter referred to as the “IRP”) of the Corporate Debtor by this Tribunal. In first meeting of the Committee of Creditors (hereinafter referred to as the “COC”) was held on 05.07.2019 wherein the COC

confirmed the appointment of the Applicant as the Resolution Professional.

- B. On 12.12.2019, in the 4th COC Meeting the members decided to unanimously opt for Liquidation of the Corporate Debtor as well as appointing the Applicant as the Liquidator of the Corporate Debtor, as no Resolution Plan has been received by the Applicant. The relevant extract of the resolution is reproduced herein below for ready reference:-

“RESOLVED THAT, *pursuant to Section 33, sub-section (2) and other applicable provisions if any, of the Insolvency and Bankruptcy Code, 2016 and in accordance with Rules and Regulations made thereunder, approval of Committee of Creditors be and is hereby accorded to liquidate the Corporate Debtor. In view of this, the COC directed the RP to intimate the Adjudicating Authority to liquidate the Corporate Debtor- Champalal Motilal Steel Company Private Limited and file an application with the Adjudicating Authority for liquidation.”*

3. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, it is observed from the minutes of the 4th COC meeting that the COC has unanimously decided to liquidate the Corporate Debtor. The COC has appointed the Applicant as Liquidator to carry on the process of Liquidation of the Corporate Debtor. The Applicant has agreed to act as Liquidator to carry on the process of Liquidation and given his consent to act as Liquidator. This bench, therefore allows the above Miscellaneous Application Number 566 of 2020 and passed the following:

ORDER

1. The above M.A. No. 566/2020 is allowed, and the Corporate Debtor Champalal Motilal Vyapaar Pvt. Ltd. is ordered to be liquidated.

- a. **Mr. Rajan Rawat**, having Registration No. IBBI/IPA-002/IP-N00743/2018-19/12262 and having office at: B-602, AZZIANO, Rustomjee Urbania, Majiwada, Thane (W), Mumbai- 400601 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.
- d. 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.
- 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. 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.

- 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. M.A. No. 566 of 2020 is hereby allowed and disposed of.

Sd/-
Chandra Bhan Singh
MEMBER (TECHNICAL)

Sd/-
H.V. Subba Rao
MEMBER (JUDICIAL)