

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

**I.A. 3714 OF 2022**

Under Section 33 of Insolvency &  
Bankruptcy Code, 2016

Mr. Santanu T Ray

Resolution Professional/  
...Applicant

In the matter of

C.P.(IB) No. 1253/MB/2020

ICICI Bank Limited

Financial Creditor

Vs.

Rasiklal Sankalchand Jewellers Private  
Limited

Corporate Debtor

***Order delivered on: 17.02.2023***

***Coram:***

**Mr. Prabhat Kumar**  
Hon'ble Member (Technical)

**Mr. Kishore Vemulapalli**  
Hon'ble Member (Judicial)

***Appearances (via videoconferencing):***

For the Applicant/RP

: Mr. Rohit Gupta a/w Ms.  
Rubina Khan, Advocates i/b  
Fortis India Law

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**ORDER**

***Per: Kishore Vemulapalli, Member (Judicial)***

1. The above application I.A. No. 3714/2022 is filed by Resolution Professional, Mr. Santanu T. Ray (hereinafter referred to as the “Applicant”) seeking liquidation of Rasiklal Sankalchand Jewellers 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 07.06.2022 in Company Petition No. 1253/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. The Applicant was appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal.
  - b. Ld. Counsel for the Applicant submits that pursuant to the publication of FORM-G, the Resolution Professional received one Expression of Interest “EOI” from “Nakshatra Corporate

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Advisors Limited”. The prospective Resolution Applicant had also submitted EMD of Rs. 5.00 Lakhs with the Resolution Professional.

- c. On 20.10.2022, after receiving the confidentiality undertaking from the Nakshatra Corporate Advisors Limited, the Applicant shares the RFRP, the Information Memorandum and Evaluation Matrix the Resolution Applicant.
- d. On 16.11.2022, the RA seek additional period and requested the RP through mail to extent the date of submission of Resolution Plan by 14 days. On the same date, the Applicant informed the COC members to provide their opinion on or before 17.11.2022, whether the extension should be granted or not.
- e. Till 17.11.2022, the Applicant has received no instructions from the COC. Therefore, he communicated his inability to extend the time to the prospective Resolution Applicant. On 18.11.2022, which was the last date for submitting the Resolution Plan, the RP has not received any Resolution Plan. The Applicant had refunded the EMD amount of Rs.5.00 Lakhs to Nakshatra Corporate Advisors Limited.
- f. In view of the above facts, the RP informed the COC members and seeks advice on whether to publish a Form-G inviting expression of Interest and also to apply for extension of CIRP

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period by another 90 days as there is no resolution plan received by the Applicant/RP.

- g. In view of the above, the members of COC in its 6<sup>th</sup> COC meeting held on 28<sup>th</sup> November 2022 decided to liquidate the Company as there is no resolution plan received by the RP and also as the assets of the Corporate Debtor are attached with EOW, therefore there are very low chances to resolve and restructure the Corporate Debtor. Further the operations of the Corporate Debtor are not operative since 2018, therefore the business of the Corporate Debtor cannot be carried on as a going concern in accordance with Regulations 39C of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- h. In view the above, the CoC in its 6<sup>th</sup> Meeting held on 28<sup>th</sup> November 2022 with 94.46% voting decided 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. Rasiklal Sankalchand Jewellers Private Limited be liquidated as per the provision of Section 33 of the Insolvency and Bankruptcy Code, 2016”***

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3. 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**

4. The above I.A. No. 3714/2022 is allowed and the Corporate Debtor Rasiklal Sankalchand Jewellers Private Limited is ordered to be liquidated as a going concern for the first attempt and if it fails, then sale by other methods should be tried.
- a. **Mr. Gajesh Labhchand Jain**, having Registration No. No IBBI/IPA-001/IP-P01697/2019-2020/12588, having office at: D-501, Clifton Society, Raviraj Oberoi Marg, Shastri Nagar, 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.

IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH, COURT IV

I.A. 3714 OF 2022  
IN  
CP (IB) 1253/C-IV/MB/2020

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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.3714/2022 filed u/s33 (1) by the applicant is hereby allowed and disposed of.

Sd/-

**PRABHAT KUMAR**  
Member (Technical)  
/NP/  
17.02.2023

Sd/-

**KISHORE VEMULAPALLI**  
Member (Judicial)