



NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

15. I.A. 1923/2022 I.A. 878/2022 IN C.P.(IB)-2941(MB)/2019

CORAM: SHRI H. V. SUBBA RAO, MEMBER (J)
SMT ANURADHA SANJAY BHATIA, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **05.09.2022**

NAME OF THE PARTIES: Xander Finance Pvt Ltd

V/s

Liz Traders & Agents Pvt Ltd

SECTION 7 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

I.A. 1923/2022

Adv. Prajakta Menezes appearing for the Resolution Professional is present through virtual hearing.

The above application is filed by Resolution Professional for liquidation of the Corporate Debtor.

Heard the counsel appearing for the Resolution Professional and the above I.A. 1923/2022 is **allowed**. Detail order would follow:

I.A. 878/2022

The above Application is filed Resolution Professional seeking cooperation from ex-promoter/director of the Corporate Debtor.

In view of the liquidation order passed in I.A. 1923/2022, the present I.A. 878/2022 has become infructuous and **disposed of** accordingly.

Sd/-
ANURADHA SANJAY BHATIA
Member (Technical)
//rks//

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



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

IA. No. 1923 of 2022

IN

C.P.No.(IB)2941(MB) of 2019

Under Section 33(3), r/w 14 of Insolvency
& Bankruptcy Code, 2016

In the matter of

Liz Traders & Agents Pvt Ltd.

.... CORPORATE DEBTOR

I. A. No. 1923 of 2022

Ms. Prajakta Menezes

.... Applicant/Liquidator

Order delivered on 05.09.2022

Coram:

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

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

For the Applicant: Resolution Professional/Adv. Prajakta
Menezes,

1. The above application I.A. No. 1923/2022 is filed by Resolution Professional, Ms. Prajakta Menezes (hereinafter referred to as the "Applicant") seeking liquidation of Liz Traders & Agents Pvt. Ltd. (hereinafter referred to as the "Corporate Debtor") under Section 33(3) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as "the Code"), praying for following reliefs:

a. Allow the instant Application;



- b. Pass an order directing Initiation of the liquidation proceeding of the Corporate Debtor i.e. Liz Traders and Agents Pvt Ltd, in terms of Section 33 of Insolvency and Bankruptcy Code,2016;*
- c. Pass an order appointing the Liquidator of the Corporate Debtor and fix the fee;*
- d. Pass ad-interim and interim reliefs in terms of Clause A and B.*
- e. Pass such other or further orders and other relief(s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.*

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

- A. The present Application has been filed by, Ms. Prajakta Menezes the Resolution Professional of Liz Traders & Agents Pvt. Ltd. ("Corporate Debtor") under Section 33(3) of the Insolvency and Bankruptcy code,2016 ("the code"), in order to bring to the kind notice of this Hon'ble Tribunal that the Committee of Creditors ("COC") of the Corporate Debtor, which consists of the financial creditor, namely The Bank of Baroda, Xander Finance Private Limited and IFCI Limited, has resolved to liquidate the Corporate Debtor.
- B. On 31.03.2022, in the first meeting of the Committee of Creditors (hereinafter referred to as the "CoC") the Applicant was appointed as the Resolution Professional which was unanimously approved by CoC in favour of the same.
- C. The Applicant states that pursuant to the receipt of claim from Bank of Baroda on 07.04.2022 and IFCI Limited on 13.04.2022 she had reconstituted the CoC and accordingly submitted the second list of creditors in terms of Regulation



13(2)(d) of CIRP Regulations along with an updated report certifying reconstitution of the Constitution of CoC in compliance with Regulation 17(1) of CIRP Regulations on 05.05.2022.

- D. The Applicant submitted that the Second meeting of the CoC on 12.05.2022 wherein she apprised the CoC members on the reconstitution of CoC, non-availability of relevant information for preparation of the Information Memorandum of the Corporate Debtor and regarding appointment of Registered Valuers and Transaction Auditors.
- E. The Applicant further submitted that the 3rd meeting of CoC of the Corporate Debtor was convened on 26.05.2022 wherein the Applicant apprised the member that relevant information was not available for the preparation of the Information Memorandum, Evaluation Matrix, and Request for Resolution Plan of the Corporate Debtor.
- F. The Applicant informed that Regulation 39C of CIRP Regulations requires that if the plan is not approved and an order for liquidation is passed under Section 33 of the Code; the CoC may recommend that the Liquidator first explores sale of the corporate debtor as a going concern or sale of the business of the corporate debtor as a going concern. The Applicant informed the members that the Corporate Debtor is not running as going concern in today's date and sought the views of the members on the same. The members deliberated and agreed that the sale of Corporate Debtor can be explored as an option however the same can also be deliberated and decided with the Liquidator in the Stakeholder Consultation committee.



- G. The Applicant submitted that and apprised the members that she is not proposing herself as Liquidator of the Corporate Debtor and further stated that members can either propose any other name of Liquidator of their choice and such persons consent can be filed along with liquidation application or alternatively it can be requested to the Adjudicating Authority to appoint the liquidator for the corporate debtor in the liquidation application from the list available with them.
- H. It is further submitted that the CoC chose to pass a resolution to initiate liquidation as by operation of law under Section 33(2) of the Code, the CoC of Corporate Debtor may opt for Liquidation of Corporate Debtor any time during the Corporate Insolvency Resolution Process after the constitution of Committee of Creditors but before confirmation of Resolution Plan including at any time before the preparation of the Information Memorandum. The CoC therefore instructed the Applicant to file a Liquidation Application with this Hon'ble Tribunal. Therefore, as per the provisions of Section 33(2) of the Code, an order of liquidation is required to be passed against the Corporate Debtor.
- I. The Applicant pursuant to 3rd CoC meeting held that Corporate Debtor under regulation 33 of the Insolvency and Bankruptcy Code, 2016 and appointment of Liquidator of the Corporate Debtor and that the chairperson informed the members that in the previous meeting the members have requested the chairperson to put forth the resolution for liquidation of Corporate Debtor for discussion as there are no assets available in the Corporate Debtor and liquidation will be preferred option over Corporate Insolvency Resolution Process.



- J. In the 3rd CoC Meeting the members decided to unanimously opt for Liquidation. The relevant extract of the resolution is reproduced herein below for ready reference:-

“RESOLVED THAT, *the consent of the members of Committee of Creditors be and is hereby accorded for Liquidation of the Corporate Debtor under Section 33 of the Insolvency and Bankruptcy Code, 2016.”*

“RESOLVED FURTHER THAT *Ms. Prajakta Menezes be and is hereby authorize to make necessary application for Liquidation of the Corporate Debtor under Section 33 of the Insolvency and Bankruptcy Code,2016”*

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 3rd CoC meeting that the CoC has unanimously decided to liquidate the Corporate Debtor and requested to appoint liquidator from the list of IBBI panel available with this bench. This bench, therefore allows the above Interlocutory Application Number 1923 of 2022 and passed the following:

ORDER

1. The above I.A. No. 1923/2022 is Allowed, and the Corporate Debtor Liz Traders & Agents Pvt. Ltd. is ordered to be liquidated.
 - a. **Ms. Mrudula Cletus Brodie** (IP Registration No. IBBI/IPA-001/IP-P01702/2019-2020/12681 and having email id camrudulkejdiwal@gmail.com, having mobile no. 9823900332 is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.



- b. That the Liquidator for the conduct of Liquidation proceedings would be entitled to a remuneration according to Liquidation fees (B) As per Regulation 4 of the IBBI (Liquidation Process) Regulation 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.
- j. Registry is directed to communicate this order to the Liquidator.

With the above directions, this application i.e. I.A. No. 1923 of 2022 is hereby allowed and disposed of.

Sd/-
Anuradha Sanjay Bhatia
MEMBER (TECHNICAL)

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