



**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**INDORE SPECIAL BENCH**  
**COURT NO. 1**

ITEM No.202 – (MP) IA 53 of 2020  
in  
TP 125 of 2019 [CP(IB) 159 of 2018]

**Proceedings under Section 9 IBC**

**IN THE MATTER OF:**

Harshad V Vora  
V/s  
Bhagwan Motors Pvt Ltd

.....Applicant

.....Respondent

**Order delivered on 01/09/2023**

**Coram:**

Mahendra Khandelwal, Hon'ble Member(J)  
Kaushalendra Kumar Singh, Hon'ble Member(T)

**PRESENT:**

For the Applicant :

For the Respondent :

**ORDER**

**(MP) IA 53 of 2020**

This case is fixed for pronouncement of the order.

The order is pronounced in open Court, *vide* separate sheet.

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**KAUSHALENDRA KUMAR SINGH  
MEMBER (TECHNICAL)**

A. Bhadauria / Stenographer

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**MAHENDRA KHANDELWAL  
MEMBER (JUDICIAL)**

**BEFORE THE ADJUDICATING AUTHORITY**  
**NATIONAL COMPANY LAW TRIBUNAL**  
**INDORE BENCH**

**IA/53/MP/2020**

**In**

**TP/125/MP/2019**

**CP(IB)/159/2018**

*(Application under section 33 of the Insolvency and Bankruptcy Code, 2016)*

**Through:**

**Mr. Mangesh Vitthal Kekre**

Resolution Professional of  
M/s Bhagwan Motors Pvt Ltd  
607, Chetak Center, RNT Marg,  
Indore,  
Madhya Pradesh- 452001

**.....Applicant/Resolution Professional**

**Versus**

**M/s Bhagwan Motors Private Limited**

101/F, Sector-1, Industrial Area,  
Road-II, Pithampur,  
Dist. Dhar,  
Madhya Pradesh- 454775

**.....Respondent No. 1/Corporate Debtor**

**Harshad V. Vora**

Proprietor of Utkarsh Steel Corporation  
40, Carnac Siding Road, Iron Market  
Steelyard Building Gate,  
Mumbai,  
Maharashtra- 400009

**.....Respondent No. 2/Operational Creditor**

**Corporation Bank**

Sudarshan Complex,  
Block C U G 36 % 37,  
Mhow Neemuch Road,  
Pithampur, Dist. Dhar,  
Madhya Pradesh- 454775

**.....Respondent No. 3/Financial Creditor**

**Intec Capital Ltd.**

701-704, Manjusha Buliding 57,  
Nehry Palace,  
New Delhi- 110019

**.....Respondent No. 4/Financial Creditor**



**In the matter of:**

**TP/125/MP/2019 [CP(IB)/159/2018]**

*(Application under section 9 of the Insolvency and Bankruptcy Code, 2016)*

**Harshad V. Vora**

Proprietor of Utkarsh Steel Corporation  
40, Carnac Siding Road, Iron Market  
Steelyard Building Gate,  
Mumbai,  
Maharashtra- 400009

**.....Operational Creditor**

**Versus**

**M/s Bhagwan Motors Private Limited**

101/F, Sector-1, Industrial Area,  
Road-II, Pithampur,  
Dist. Dhar,  
Madhya Pradesh- 454775

**.....Corporate Debtor**

**Order pronounced on: 01.09.2023**

**Coram: Mahendra Khandelwal, Member (J)**

**Kaushalendra Kumar Singh, Member (T)**

**Appearance:**

For IRP/RP: Ld. Adv. Mr. Anand Prabhawalkar a.w. Ld. PCA Ms. Ayushi Patidar & Mr. Mangesh Vitthal Kekre (RP in person)

For Respondent: Ld. Mr. Dhruv Parwal (R-4)

Ld. Adv. Ms. Soumya Dharwa (UBI)

**ORDER**

1. This application is filed by Mr. Mangesh Vitthal Kekre, resolution professional of M/s Bhagwan Motors Private Limited (Corporate Debtor) under section 33(1), 33(2) and 34(1) of the Insolvency and Bankruptcy Code, 2016 (the Code) for initiating the liquidation process of the corporate debtor.

2. The submissions made by the applicant in its application are summarized hereunder:



(i) The operational creditor i.e. Mr. Harshal V. Vora, proprietor of M/s Utkarsh Steel Corporation had filed an application under section 9 of the Code seeking initiation of the Corporate Insolvency Resolution Process (CIRP) against the corporate debtor, which was admitted by the Adjudicating Authority vide order dated 21.06.2019. Mr. Rajesh Lohia was appointed as the Interim Resolution Professional (IRP) of the Corporate debtor.

(ii) An application i.e. IA/679/2019 was filed by the COC before the Adjudicating Authority seeking replacement of the IRP. The Adjudicating Authority vide order dated 07.11.2019 allowed the said application and the applicant herein was appointed as the resolution professional.

(iii) The resolution professional published EOI in Form-G dated 17.01.2020, inviting submission of resolution plan for the corporate debtor. Further, in the 6<sup>th</sup> COC meeting dated 30.01.2020 the resolution professional informed the COC that till date no EOI has been received. The COC in its 7<sup>th</sup> meeting dated 14.02.2020 decided not call for any further EOI and passed a resolution for liquidation of the corporate debtor.

(iv) The COC in its 8<sup>th</sup> meeting dated 03.03.2020, in accordance with Regulation 39D of the IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016, resolved and approved the remuneration of the liquidator as 75% of the fees as prescribed in the schedule given in Regulation 4 of the IBBI (Liquidation Process) Regulations, 2016 for the first 6 months from the date of order of liquidation and after 6 months fees as prescribed in the schedule given in the said Regulation.

3. We have heard the learned resolution professional and perused the relevant material available on record. It is noted that the corporate debtor was admitted into CIRP vide order dated 21.06.2019. Form-G was published by the resolution professional and the last date for submission of EOI was 01.02.2020, however, no resolution plan was received by the resolution professional till the last date of submission of the EOI. Further, the COC in



its 7<sup>th</sup> meeting dated 14.02.2020 has passed a resolution for liquidation of the corporate debtor.

4. During the course of hearing, the resolution professional on 07.07.2023 submitted before this Adjudicating Authority that no effective meeting had been conducted with regards to the liquidation cost and sale as a going concern as required under Regulation 39B and 39C of the IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016. This Adjudicating Authority vide order dated 07.07.2023 directed the resolution professional to call a COC meeting and furnish a resolution required under the said Regulations for passing the order of liquidation of the corporate debtor. The resolution professional in compliance of the order dated 07.07.2023 of this Adjudicating Authority called a COC meeting. The COC in the said meeting dated 18.07.2023, in accordance with Regulation 39B of the IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016, resolved and approved the liquidation cost of Rs 5,00,000/- and further resolved that in case there is any shortfall in meeting out the liquidation cost, the COC members will contribute it in the proportion to the financial debts owed to them by the corporate debtor. Further, the COC in accordance with Regulation 39C resolved to first explore the sale of assets of the corporate debtor as a going concern. An affidavit containing the resolutions in accordance with Regulation 39C and 39D are also annexed and the same is placed on record. As such the application deserved to be allowed.

5. The applicant herein has provided its written consent to be appointed as the liquidator of the corporate debtor. However, IBBI in its letter dated 18.07.2023, has recommended that IP other than the IRP/RP may be appointed as liquidator in all the cases where a liquidation order is to be passed henceforth, and the liquidator can be appointed from the panel list of IBBI.

6. In view of the facts and circumstances and documents available on record, we pass the following order:

- (i) The corporate debtor M/s Bhagwan Motors Private Limited shall be put into liquidation in terms of the provisions of section 33(2) of the



Code r.w. Regulations made thereunder which shall be effective from the date of this order. Accordingly, we allow IA/53/MP/2020.

(ii) The Moratorium declared under section 14 of the Code shall cease to have effect from the date of the order of liquidation.

(iii) According to section 34(4)(b) of the Code and the letter dated 18.07.2023 of IBBI, we hereby appoint Mr. Amit Chopra, having registration no. IBBI/IPA-001/IP-P00939/2017-2018/11543 as a liquidator of the corporate debtor i.e. M/s Bhagwan Motors Private Limited. The liquidator so appointed shall complete the liquidation process as per the provisions of the Code r.w. the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

(iv) All the powers of the Board of Directors, key managerial persons, and the partner of the corporate debtor, as the case may be, hereafter cease to exist. All these power henceforth vest with the liquidator.

(v) The personnel of the corporate debtor are directed to extend all cooperation to the liquidator as required by him in managing the liquidation process of the corporate debtor.

(vi) The liquidator will charge fees for the conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and same shall be paid to the liquidator from the proceed of the liquidation estate under section 53 of the Code.

(vii) Once the liquidation process is initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the corporate debtor. The liquidator has the liberty to institute a suit and other legal proceedings on behalf of the corporate debtor with the prior approval of this Adjudicating Authority, as provided in sub-section (5) of section 33 of the Code.

(viii) This liquidation order shall be deemed to be 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.



(ix) This Adjudicating Authority directs the liquidator to issue a public announcement stating that the corporate debtor is in liquidation. The liquidator will also serve a copy of this order to the various Government Departments such as Income Tax, GST, VAT, etc., who are likely to have any claim upon the corporate debtor so that the authorities concerned are informed of the liquidation order timely. The liquidator will also provide a copy of this order to the trade unions/employee associations of the corporate debtor so that the workman/employees could also be informed of this liquidation order through their association.

(x) The Registry is directed to communicate this order to the concerned Registrar of the Companies, the registered office of the corporate debtor, the resolution professional, and the liquidator by speed post as well as e-mail within one week from the date of this order, after completion of all the formalities.

(xi) The present resolution professional is directed to hand over the relevant documents and control of the corporate debtor to the newly appointed liquidator forthwith.

7. Accordingly, IA/53/MP/2020 in TP/125/MP/2019, CP(IB)/159/2018 is disposed of.

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**KAUSHALENDRA KUMAR SINGH**  
**MEMBER (TECHNICAL)**

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**MAHENDRA KHANDELWAL**  
**MEMBER (JUDICIAL)**

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