



**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**DIVISION BENCH**  
**COURT - 1**

ITEM No.301

IA/922(AHM)2022 in CP(IB) 25 of 2019

**Proceedings under Section 33(2) & 34(1) IBC,2016**

**IN THE MATTER OF:**

Vijay Prakash Usharia RP of DMB Paper Mills Pvt Ltd .....Applicant

V/s

Infra Khan Ex-director of DMB Paper Mills Pvt Ltd & Ors .....Respondent

**Order delivered on: 29/08/2023**

**Coram:**

Mr. Shammi Khan, Hon'ble Member(J)

Mr. Sameer Kakar, Hon'ble Member(T)

**PRESENT:**

For the Applicant :

For the Respondent :

**ORDER**

The case is fixed for pronouncement of order. The order is pronounced in open Court, vide separate sheet.

-SD-

**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**

-SD-

**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**DIVISION BENCH**  
**COURT - 1**

ITEM No.302

IA/646(AHM)2023 in CP(IB) 25 of 2019

**Proceedings under Section 27(3) and 23(B) IBC,2016 r.w Rule 11 of NCLT Rules,2016**

**IN THE MATTER OF:**

Krishkan Investment Pvt Ltd

.....Applicant

V/s

DMB Paper Mills Pvt Ltd & Anr

.....Respondent

**Order delivered on: 29/08/2023**

**Coram:**

Mr. Shammi Khan, Hon'ble Member(J)

Mr. Sameer Kakar, Hon'ble Member(T)

**PRESENT:**

For the Applicant :

For the Respondent :

**ORDER**

The case is fixed for pronouncement of order. The order is pronounced in open Court, vide separate sheet.

-SD-

**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**

-SD-

**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**DIVISION BENCH**  
**COURT - 1**

ITEM No.303

IA/484(AHM)2022 in CP(IB) 25 of 2019

**Proceedings under Section 19(2) IBC,2016 r.w Sec 429 r.w 137(3) of Co.Act,2013**

**IN THE MATTER OF:**

Vijay Prakash Usharia RP of DMB Paper Mills Pvt Ltd  
V/s  
Infra Khan & Ors

.....Applicant

.....Respondent

**Order delivered on: 29/08/2023**

**Coram:**

Mr. Shammi Khan, Hon'ble Member(J)  
Mr. Sameer Kakar, Hon'ble Member(T)

**PRESENT:**

For the Applicant :  
For the Respondent :

**ORDER**

The case is fixed for pronouncement of order. The order is pronounced in open Court, vide separate sheet.

-SD-  
**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**

-SD-  
**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
(COURT-1)**

**IA/922(AHM)2022 in CP(IB) No. 25 of 2019  
Along with**

**IA/646(AHM)2023  
and**

**IA/484(AHM)2022**

**In the matter of DMB Paper Mills Pvt. Ltd.**

In the matter between:

**IA/922(AHM)2022 in CP(IB) No. 25 of 2019**

*[Under Section 33 (2) & 34(1) of the Insolvency and Bankruptcy Code, 2016]*

**Mr. Vijay Prakash Usharia**

Resolution Professional of

M/s. DMB Paper Mills Pvt. Ltd.

Reg. No. IBBI/IPA-001/IP-P01344/2018-2019/12015

Having address at:

B-17/16, Mahananda Nagar,

Ujjain, Madhya Pradesh, 456010

**....Applicant**

**VERSUS**

**1. Mr. Irfan Khan and**

Ex-Director of M/s. DMB Paper Mills Pvt. Ltd.

Having Address at:

02-Warsi Compund, Kharjana,

Indore, Madhya Pradesh-452001

**2. Yakub Khan**

Having Address at:



02-Warsi Compund, Kharjana,  
Indore, Madhya Pradesh-452001

**3. Union Bank of India**

Having address at:  
Union Bank of India stress asset management branch at  
Near Mumbai Samachar Marg,  
Fort, Mumbai-400023

**....Respondents**

**Along With**

**IA/646(AHM)2023 in CP(IB) No. 25 of 2019**

*[Under Section 27(3) and 22(3)(B) of the Insolvency and  
Bankruptcy Code, 2016 r.w. Rule 11 of NCLT Rules, 2016]*

**Krishkan Investment Private Limited**

**CIN U65991WB1989PTC184151**

Assignee of the Debt from Union Bank of India  
(Erstwhile Sole member of CoC)

A Company incorporated under  
provisions of the Companies Act, 1956 and registered as NBFC  
pursuant to Sec 45-IA of the RBI Act, 1934

Having its office at:

J.P. Road, Near Navrang Cinema,  
A-102/2, A Wing, Hillview CHS. Ltd.,  
Andheri (West) Mumbai, MH 400058

**....Applicant**

**VERSUS**

**1. DMB Paper Mills Private Limited**

Having address at:  
R/Plot No.352, Sneh Ganga,  
Near Upashnaschool,



Gidc Bunglow Area, Gidc Vapi  
Vapi Valsad Gujarat- 396195

**2. Suspended Board of Directors of the Corporate debtor**

Mr. Irfan Khan

Mr. Yakub Khan

Both Residing at:

211, Shagun Building, Vijay Nagar,  
AB Road, Above Apna Sweets,  
Indore, Madhya Pradesh- 452001

**3. Union Bank of India**

corporate body constituted under section 3 of Banking  
Companies

(Acquisition and Transferring of Undertakings) Act, 1970  
having one of its branch i.e.

Stressed asset management branch at:

104, Ground Floor, Bharat House,  
M.S. Marg, Fort, Mumbai-40001

**....Respondents**

**And**

**IA/484(AHM)2022 in CP(IB) 25 of 2019**

*[ Under Section 19(2) of Insolvency and Bankruptcy Code, 2016  
r.w. Section 429 and 137(3) of Companies Act, 2013]*

In the matter of:

**Mr. Vijay Prakash Usharia**

[RP of M/s. DMB Paper Mills Pvt. Ltd.]

REGN. NO. IBBI/IPA-001/IP-P01344/2018-2019/12015

Having Address at:

B-17/16, Mahananda Nagar, Ujjain,  
Madhya Pradesh.

**....Applicant**



**VERSUS**

**1. Mr. Irfan Khan and**

Ex-Director of CD  
Having Address at:  
Warsi Compund, Kharjana,  
Indore-452001

**2. Yakub Khan**

Having Address at:  
Warsi Compound, Khajrana,  
Indore-452001

**3. Sharad Rustagi**

Auditor of CD  
Having Address at:  
A-902, Everson Co Op HsgSoc Ltd  
Sahakar Nagar, Near Apana Bazar,  
JP Road, Mumbai 400 053

**....Respondents**

**Order pronounced on: 29.08.2023**

**Coram:**

**SHAMMI KHAN, MEMBER (JUDICIAL)**

**SAMEER KAKAR, MEMBER (TECHNICAL)**

**Appearance:**

For the Applicant : Mr. Nipun Singhvi, Adv. a/w Mr.  
Mayur Jugtawat, Adv.

For the CoC : Mr. Saurav Soparkar, Sr. Adv. with Mr.  
Hiten Parikh, PCA

For the Respondent : Mr. Pavan Godiawala, Adv.



**COMMON ORDER**  
**(Per: Bench)**

1. **IA 922 of 2022** has been filed by the Resolution Professional (RP) Under Sections 33 (2) and 34(1) of the Code seeking the following reliefs:

a) *Your Lordship may be pleased to allow the present Application;*

b) *Your Lordship may be pleased to pass an order under Section 33(2) and 34(1) of the IB Code for liquidation of M/s DMB Paper Mills Pvt. Ltd. and appoint Vijay Prakash Usharia (Regn. No. IBBLAIPA-001/IP-P01344/2018-2019/12015) as Liquidator of M/s DMB Paper Mills Pvt. Ltd.;*

c) *Your Lordship may be pleased to grant any other relief(s) as may deem fit in the interest of justice.*

2. **IA 646 of 2023** has been filed by M/s. Krishkan Investment Pvt. Ltd. (assignee of the debt from Union Bank of India) Under Sections 27(3) and 22(3)(B) of the Code r.w. Rule 11 of NCLT Rules, 2016 seeking the following reliefs:

a) *Pass an Order for substituting the Resolution Professional as Mr. Shreyansh Jain having IBBI Registration Number IBBI/IPA-001/IP-P-01683/2019-2020/12727.*



*b) In case of approval of the Liquidation Application by this Hon'ble Bench, Mr. Shreyansh Jain to be appointed as Liquidator.*

3. **IA 484 of 2022** has been filed by the RP under Section 19(2) of the Code r.w. Section 429 and 137(3) of the Companies Act, 2013 seeking the following reliefs:

- (a) Your Lordship may be pleased to allow the present application;*
- (b) Your Lordship may be pleased to issue directions under Section 19 of the Code, Respondents herein to assist and co-operate with the applicant and to comply with the instructions of the applicant and provide information/ documents required by RP;*
- (c) Your Lordship may be pleased to permit Applicant RP to initiate appropriate proceedings against Respondent No. 1 to 2 for non-filing of financial statement, non-reporting of change of registered office of the Corporate Debtor to ROC and not keeping the Books of accounts at Registered office of the Corporate Debtor and against Respondent 1 to 3 under Section 145 and 146 of the Companies Act 2013.*
- (d) Your Lordship may be pleased to direct Respondent No. 1 to 2 to assist and cooperate in finalising and filing the financial statement as per the provisions of Companies Act, 2013.*



- (e) *Your Lordship may be pleased to give liberty to approach Local Police to provide further assistance to the RP for taking requisite information/documents in accordance with Regulation 30 of IBBI (CIRP) Regulations, 2016;*
- (f) *Your Lordships may be pleased to request and seek assistance of Chief Judicial Magistrate or district collector in accordance with Section 429 of the Companies Act, 2013.*
- (g) *Your Lordships may be pleased to pass appropriate order in accordance with Section 70 of the Code for misconduct during the course of CIRP;*
- (h) *Your Lordship may be pleased to grant any other relief or relief as may deem fit in the interest of justice;*

**IA 922 of 2022**

4. It is stated that a Section 10 application was filed and numbered as CP(IB) No. 25 of 2019 whereupon this Tribunal admitted the Corporate Debtor (CD) into Corporate Insolvency Resolution Process (CIRP) vide order dated 24.11.2021.
5. The Interim Resolution Professional (IRP) made public announcement on 04.12.2021 and upon receipt of claims constituted the Committee of Creditors (CoC) comprising of one Financial Creditor – Union Bank of India.



6. The first meeting of the CoC was held on 01.01.2022. It is stated that at the commencement of the CIRP, the Corporate Debtor's factory was in possession of the sole Financial Creditor who agreed to release possession in favour of IRP.
7. The CoC resolved to appoint the applicant herein - the RP. Subsequently, vide order dated 14.02.2022 in IA No. 125 of 2022, this Tribunal appointed the applicant herein to act as RP replacing the IRP.
8. It is submitted that Form – G was published on 20.07.2022 and the Request for Resolution Plan (RFRP) was approved on 11.08.2022. IA 645 of 2022 was filed by the RP seeking the exclusion of 45 days. The same was ordered on 01.08.2022 whereby the CoC was directed to complete the process within 30 days from the date of the order.
9. It is stated that another application bearing IA No. 736 of 2022 was filed seeking further extension. Vide order dated 14.09.2022, this Tribunal directed the RP to complete the process by 20.10.2022.
10. It is stated that three Resolution Plans were received during the process. It is also stated that an e-mail was received by



the RP from Suspended Management on 26.08.2022 expressing their interest to submit Resolution Plan, but none was received till the last date of submission of the plan which was 13.09.2022.

11. It is stated that the 9<sup>th</sup> meeting of the CoC took place on 27.09.2022 whereat the CoC provided 72 hours' time to Resolution Applicants to give their best offer in Resolution Plan.
12. It is stated that the 10<sup>th</sup> CoC meeting was held on 04.10.2022 whereat the revised Resolution Plans submitted by the three Resolution Applicants were considered. After, deliberation and considering the provisions of the IB Code, it was realized by the CoC that neither of the plans met the liquidation value nor were commercially viable, hence, the plans were not put to vote.
13. It is stated that a resolution seeking liquidation of the Corporate Debtor was passed in the 10<sup>th</sup> meeting of the CoC held on 04.10.2022. Subsequent to which, another meeting was held on 12.10.2022 whereat CoC approved the



appointment of **Mr. Vijay Prakash Usharia** as liquidator of the Corporate Debtor.

14. Subsequent to the above, the RP has filed the present application seeking liquidation of the Corporate Debtor.
15. It is seen that additional affidavit was desired to be filed. The same has been filed under Diary No. 2745 dated 26.07.2023 and the same has been taken on record.

**IA 646 of 2023**

16. It is seen that one Krishkan Investment Private Limited has obtained the assignment of debt from the Union Bank of India vide assignment agreement dated 12.04.2023. The applicant herein has attached the assignment agreement at page no. 24 of the application. One of the prayers is regarding the appointment of Mr. Shreyansh Jain as liquidator in place of applicant herein. The consent of the new liquidator is attached at page no. 59.
17. Considered the Prayer (b) in the application i.e., IA 646 of 2023 which is allowed and disposed off.
18. Heard the learned counsel for the applicant in IA 922 of 2022. The provisions of Section 33(2) of the Code are reproduced below:-



*“(2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors <sup>12</sup>[approved by not less than sixty-six per cent of the voting share] to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).*

*<sup>12</sup>[Explanation. – For the purpose of this sub-section, it is hereby declared that the committee of creditors may take the decision to liquidate the corporate debtor, any time after its constitution under sub-section (1) of [section 21](#) and before the confirmation of the resolution plan, including at any time before the preparation of the information memorandum.]”.*

19. The Hon’ble Supreme Court in the matter of ***K. Sashidhar Versus Indian Overseas Bank & Ors in Civil Appeal No. 10673 of 2018*** has held that the commercial decision of CoC is non-justificable. In this case, it is seen that CoC with 100% majority has passed the resolution seeking liquidation of the Corporate Debtor.



20. In view of the above discussion, we are forced to pass the order of liquidation of the Corporate Debtor with the following directions:-

- i. The Corporate Debtor **M/s. DMB Paper Mills 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, **IA/922 (AHM)2023** is allowed.
- ii. The Moratorium declared under section 14 of the Code shall cease to have effect from the date of the order of liquidation.
- iii. As per section 34(4)(b) of the Code, **Mr. Shreyansh Jain, having Reg. No. IBBI/IPA-001/IP-P-01683/2019-2020/12727** is hereby appointed as a Liquidator of the Corporate Debtor i.e. DMB Paper Mills 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 powers 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 Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section - 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.
- 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.
- xii. The Registry is directed to communicate this order to the concerned Registrar of the Companies, the registered office of the Corporate Debtor, IBBI, 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.

xiii. In terms of the above, IA/922(AHM)2022 is allowed and disposed off.

**IA 484 of 2022**

21. IA 484 of 2022 is filed by the RP seeking the cooperation of the Suspended Board of Directors. In terms of the directions in IA/922(AHM)2023, we have ordered for liquidation of the Corporate Debtor. As a new person has been appointed as the liquidator of the Corporate Debtor, we deem it fit to dispose of the present application with liberty to the new liquidator to file a fresh application if the cause survives. In view of the above, this application is hereby disposed off.

**-SD-  
SAMEER KAKAR  
MEMBER (TECHNICAL)**

**-SD-  
SHAMMI KHAN  
MEMBER (JUDICIAL)**

Rajeev Kr. Sen/P.S