

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

ITEM No.151

IA/470(AHM)2022 in CP(IB) 55 of 2020

Order under Section 33(2) and 34 IBC, 2016

IN THE MATTER OF:

Krunal R Tanna RP For SRK Multimodal Solutions Pvt LtdApplicant

V/s

Rashmi Kalyanji VeeraRespondent

Order delivered on ..28/11/2022

Coram:

Dr. Madan B. Gosavi, Hon'ble Member(J)
Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant :

For the Respondent :

ORDER

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

-SD-

**KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)**

-SD-

**DR. MADAN B GOSAVI
MEMBER (JUDICIAL)**

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1**

**I.A. No. 470 of 2022 in
C.P. (I.B.) No. 55 of 2020**

I.A. No. 470 of 2022

[An application filed under section 33 read with section 34 of the
Insolvency and Bankruptcy Code, 2016]

Krunal R. Tanna

Resolution Professional of:
M/s. SRK Multimodal Solutions Pvt. Ltd.
Having his office at:
603, Fortune Business Hub,
Nr. Shell Pump, Science City Road,
Sola, Ahmedabad, 380060

..... Applicant/ RP

Versus

Smt. Rashmi Kalyanji Veera

Having her address at:
3, Veera Nivas,
Ashok Nagar Dongri, Kandivali East,
Mumbai, Maharashtra, 400101

..... Respondent

In the matter of:

CP (IB) 55 of 2020

[An application under section 9 of Insolvency and Bankruptcy Code,
2016]

East India Transport Agency

(Unit of Elta India Limited)

Having its office at:
301, Steel Chambers,
Devji Rayansey Marg,
Mumbai 400009

...Operational Creditor

Versus

SRK Multimodal Solutions Private Limited

Having its office at:
Plot No. 315, Ward-12/B,
Deepak Complex, first floor,
Office no. 2,
Gandhidham, 370201

...Corporate Debtor

Order reserved on 31.10.2022
Order pronounced on 28.11.2022

Coram: DR. MADAN B. GOSAVI, MEMBER (J)
KAUSHALENDRA KUMAR SINGH, MEMBER (T)

Appearance:

Ms. Manasi Trivedi, Ld. Adv. on behalf of Mr. Pratik Thakkar, Ld. Adv. appeared for the Applicant

ORDER

1. The present Interlocutory Application is filed by Resolution Professional ("**RP**") under section 33 read with section 34 of the Insolvency & Bankruptcy Code, 2016 ("**IBC**", **2016**) seeking order of liquidation of Corporate Debtor namely SRK Multimodal Solutions Pvt. Ltd.
2. The Corporate Debtor was admitted into Corporate Insolvency Resolution Process ("**CIRP**") vide order dated 23.11.2021 passed by this Adjudicating Authority on an application filed by the Operational Creditor namely East India Transport Agency under section 9 of the IBC, 2016 and Mr. Krunal R. Tanna having Registration No. (IBBI/IPA-001/IP-P-

01949/2020-2021/13064) was appointed Interim Resolution Professional (“**IRP**”).

3. The IRP appointed by this Adjudicating Authority made public announcement in “**Indian Express**” English edition and “**Sandesh**” Gujarati edition on 26.11.2021 for submission of claims by Creditors and formulated the Committee of Creditors (“**COC**”).
4. In the 1st CoC meeting dated 24.12.2021, the CoC discussed and sought time to vote on all topics including the approval of Krunal R. Tanna as RP of the Corporate Debtor, SRK Multimodal Solutions Pvt. Ltd.
5. In the 2nd CoC meeting dated 30.12.2021, the topic for approval of Krunal R. Tanna as RP of SRK Multimodal Solutions Pvt. Ltd. was kept for e-voting.
6. IA No. 65 of 2022 in CP (IB) No. 55 of 2020 was filed by the Applicant on 17.01.2022, seeking directions upon the 2 CoC member i.e (i) The Assistant Commissioner, CGST Division – Gandhidham (Urban) having 88% voting rights and (ii) the Assistant Commissioner of the Income Tax Department, Gandhidham having 10% voting rights who were not voting either in favour or against the number of resolutions kept for voting. This Adjudicating Authority vide order dated 16.03.2022 directed the CoC members to take active part in CIRP.
7. In the 3rd CoC meeting dated 11.04.2022, 2 out of 3 CoC members voted in favour of the resolutions kept for voting in 2nd CoC meeting. However, 1 CoC member i.e. The Assistant Commissioner, CGST Division – Gandhidham (Urban) having 88% voting rights did not vote for or against any resolution. Hence, IA 415 of 2022 in CP (IB) No. 55 of 2020 was filed again by Applicant on 28.04.2022 seeking directions upon CoC member having 88%

voting rights who were not voting either in favour or against the number of resolutions kept for voting. This Adjudicating Authority vide order dated 09.05.2022 directed the CoC member having 88% voting rights to take active part in CIRP.

8. In the 4th CoC meeting dated 17.05.2022, the CoC member with 88% voting right indicated their intention to withdraw the CIRP. The CoC also resolved to appoint IRP as RP of the Corporate Debtor by 88% voting.
9. In the 5th CoC meeting dated 20.05.2022, the CoC approved the liquidation of the Corporate Debtor by 98% voting.
10. This Adjudicating Authority vide order dated 13.07.2022 directed the RP to file resolutions regarding sale of Corporate Debtor as a going concern and contribution in case of shortfall in meeting out liquidation cost.
11. In the 6th CoC meeting dated 18.08.2022, the CoC approved the assessment of sale as going concern as per Regulation 39C of CIRP Regulations and also approved the contribution in case liquidation cost is insufficient to meet the cost of entire process as per Regulation 39B of CIRP Regulations by 100% voting. The compliance affidavit dated 25.08.2022 is filed by the RP.
12. We have heard the learned counsel of the Applicant and perused the material on record. It is noted that the CoC has decided to liquidate the Corporate Debtor by 98% voting. COC has passed the resolution to liquidate the Corporate Debtor with requisite voting as given under section 33(2) of the IBC, 2016. Accordingly we allow this application and order as under:

ORDER

1. We pass the order for initiation of liquidation of Corporate Debtor in terms of provision of section 33(1) and 33(2) of IBC, 2016

read with regulations made there-under which shall be effective from the date of this order.

2. As per the section 34(1) of the IBC, 2016 the Applicant/RP, Mr. Krunal R. Tanna having Registration No. (IBBI/IPA-001/IP-P-01949/2020-2021/13064) and email address krunaltanna.ip@yahoo.com is hereby appointed as a Liquidator of the company SRK Multimodal Solutions Pvt. Ltd. which has been duly approved by CoC in its 5th CoC meeting dated 20.05.2022.
3. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor, hereafter, cease to exist. All these powers henceforth, vest with the Liquidator.
4. The personnel(s) of the Corporate Debtor are directed to extend all co-operations to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
5. That once Liquidation process initiated, by virtue of section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suite or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority as mentioned in section 33(5) of the IBC, 2016.
6. The Liquidator is at liberty to seek any directions, if need be, from this Tribunal during the Liquidation process.
7. The Liquidator shall take necessary legal action to recover the trade receivables and other credits such as loans and advances from the parties which are reflected in the latest Balance Sheet of the Corporate Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed under section 33(5) of the Code.
8. This Liquidation order shall be a 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.

9. It is directed to the Liquidator to first explore the sale of the Corporate Debtor as a going concern envisaged under Regulation 39C of the IBBI (Insolvency Resolution Process for the Corporate Persons), Regulations, 2016.
10. It is also directed to the Liquidator to take into consideration the liquidation value of Corporate Debtor as per the valuation report annexed with the Application. It is also directed to the CoC to contribute to the liquidation cost if any short fall occurs from the liquidation value of Corporate Debtor.
11. The present I.A. No. 470 of 2022 is allowed directing the appointed Liquidator to initiate and complete Liquidation process as envisaged under Chapter – III of the Code by following the Liquidation process as specified in the Insolvency and Bankruptcy Board of India (liquidation process) Regulations, 2016.
12. The Registry is directed to upload this order on the official website within maximum two working days from the date of this order. The authenticated copy of this order be also sent by the registry to the Operational Creditor, Corporate Debtor, Registrar of the Company, Resolution Professional cum Liquidator by speed-post within one week from this order.
13. Accordingly, the present I.A. No. 470 of 2022 in CP (IB) 55 of 2020 is allowed and stands disposed of.

-SD-
KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

-SD-
DR. MADAN B. GOSAVI
MEMBER (JUDICIAL)

Shweta Desai -LRA