

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

**MA No. 3981 of 2019
In
CP No. 3272 of 2018**

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

In the matter of

Corporation Bank

... Financial Creditor

V/s.

Speciality Polymers Pvt. Ltd.

... Corporate Debtor

M.A. No. 3981 of 2019

Mr. Udupi Vasudev Ganesh Nayak

... Applicant/

Resolution Professional

Order delivered on 29.01.2020

Coram:

Hon'ble Shri Bhaskara Pantula Mohan, Member (Judicial)
Hon'ble Shri Shyam Babu Gautam, Member (Technical)

For the Applicant: Adv. Nishit Dhruva, Adv. Rohan Agarwal, Adv. Sheetal
Chaturvedi, i/b. MDP & Partners

Per Shri Shyam Babu Gautam, Member (Technical)

ORDER

1. The Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor namely Speciality Polymers Pvt. Ltd. The Adjudicating Authority vide its order dated 14.01.2019 on a Petition filed by the financial Creditor under Section 7 of the Code, wherein Mr. Udupi Vasudev Ganesh Nayak, was appointed as Interim Resolution Professional (IRP). Thereafter on 05.03.2019 in the 3rd Committee of Creditors (CoC) meeting Mr. Udupi Vasudev Ganesh Nayak, was resolved to be appointed as Resolution Professional (RP).

2. The RP submits that the public announcement was made on 17.01.2019, one in "Free Press Journal" in English and "Navshakti" in Hindi, fixing 28.01.2019 as the last date for submitting the claim. Subsequently, the IRP constituted the CoC.
3. The RP submits that the 3rd CoC meeting held on 05.03.2019 wherein it was decided to appoint a Valuer, accordingly, RP had appointed two registered valuers as required under Regulation 27 of the IBBI (IRP for Corporate Persons) Regulations, 2016 and the Information Memorandum was prepared as provided under Regulation 36(1) of the said regulation. It is further submitted that an advertisement was issued, inviting Expression of Interest in Form G on 25.03.2019 fixing 09.04.2019 as last date for submission of Expression of Interest and last date for submission of Resolution Plan by 28.05.2019, by the Prospective Resolution Applicants. It is submitted that the CIRP period was extended by 90 days w.e.f. 14.07.2019 and the said CIRP period extended came to an end on 11.10.2019.
4. The Resolution Professional submits that after the publication 3 (Three) expression of interest were received from Prospective Resolution Applicants. However, no Resolution plan was received before 28.05.2019 being the last date for receipt of Resolution Plan as per the publication. Thereafter, one of the Prospective Resolution Applicant requested for the extension, CoC members in the 8th meeting held on 07.06.2019, granted an extension for submission of the Resolution plan by 22.06.2019 and further it was extended till 06.07.2019.
5. The Resolution Professional submits that only one resolution plan was submitted, by M/s. Sterling Auxiliaries Pvt. Ltd. for an amount of ₹915.32 Lakhs and further vide letter dated 03.10.2019 agreed to bear additional estimated CIRP cost of ₹5 to 7 Lakhs on actual basis over and above ₹55 Lakhs as stated in the Resolution plan.
6. The Resolution professional submits that in the CoC in their 14th meeting held on 01.10.2019, the CoC has voted in favour of exclusion of time, keeping in view that the Miscellaneous Application seeking co-operation from directors/ Promoters was pending for adjudication before this Bench. The CoC voted in favour of exclusion of the CIRP period by a vote of 94.41%, the same exclusion

of a period of 60 days from CIRP and extended the period of CIRP till 10.12.2019.

7. The Resolution Professional submits that in the 15th CoC meeting held on 14.11.2019, the CoC has with a 99.73% voted against approval of Resolution plan and in the event on expiry of 330 days of CIRP period on 10.12.2019, passed a resolution for liquidating the company. Accordingly, the Resolution Professional filed this application for liquidation of the Company as provided u/s. 33 of the Insolvency & Bankruptcy Code, 2016 (Code).

8. The Applicant submits that the valuation of the assets of the Corporate Debtor as received from the valuers which are as under:

“(Rs. In Crore)”				
Name of the Valuers	Category of assets	Fair market value	Liquidation Value	Date of valuation report
<i>Balashaheb Katkar</i>	<i>Land and Building</i>	<i>9.69</i>	<i>6.78</i>	<i>30.03.2019</i>
<i>Kishore Vikamsey</i>	<i>Land and Building</i>	<i>9.82</i>	<i>6.93</i>	<i>14.03.2019</i>
<i>Kedar Chikodi</i>	<i>Plant & Machinery</i>	<i>3.88</i>	<i>2.33</i>	<i>30.03.2019</i>
<i>Vinodchandra Gandhi</i>	<i>Plant & Machinery</i>	<i>3.78</i>	<i>2.26</i>	<i>20.04.2019</i>
<i>Prashant Jain</i>	<i>Securities and Fin Assets</i>	<i>9.77</i>	<i>6.50</i>	<i>29.06.2019</i>
<i>Maharudra Brahme</i>	<i>Securities and Fin Assets</i>	<i>6.68</i>	<i>5.03</i>	<i>25.06.2019</i>

9. Mr. Gajesh Labhchand Jain, has agreed to act as liquidator to carry on the process of liquidation and given his consent to act as Liquidator.

10. On hearing the submissions of the Applicant and on reading the Application and the documents enclosed therein, the RP has complied with the procedure laid down under, the Code read with Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (Regulations), for the valuation report filed by the valuer has not been disputed by the CoC, on verification of the papers/ documents placed before this Bench, we are of the considered view that this is a fit case to pass liquidation order under sub-section 1 of section 33 of the Code as no resolution plan has been approved by the Adjudicating Authority and accordingly, this Bench orders;

- a. 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.
- b. that the Mr. Gajesh Labhchand Jain, Registration No. IBBI/IPA-001/IP-P01697/2019-2020/12588, herein is hereby appointed as Liquidator as provided under Section 34(1) of the Code.
- c. that the Liquidator will charge fees as *“35% discount on the fees prescribed in the Regulation 4 and payment term being as per IBBI (Liquidation Process) Regulations 2016 made thereunder”*
- d. 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.
- e. 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.
- f. that the liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by the IBBI and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.
- 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 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.

11. Consequently, as stated above Mr. Gajesh Labhchand Jain, is appointed as the Liquidator as provided 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;
12. Accordingly, this Misc. Application is hereby allowed directing 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.

Sd/-

SHYAM BABU GAUTAM
MEMBER (TECHNICAL)

Sd/-

BHASKARA PANTULA MOHAN
MEMBER (JUDICIAL)