

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

**I. A. No. 1357/2020  
In  
C. P. No. 2838/IB/2018**

Under Section 33 of Insolvency &  
Bankruptcy Code, 2016  
In the matter of

JAY JAY INTERNATIONAL  
... Operational Creditor  
V/s.  
PARTH CHEM IMPEX PVT. LTD.  
... Corporate Debtor

**I. A. No. 1357/2020**

Mr. Vimal Kumar Agrawal  
... Applicant/  
Resolution Professional

**Order delivered on 06.11.2020**

**Coram:**

Hon'ble Shri H. V. Subba Rao, Member (Judicial)  
Hon'ble Shri Shyam Babu Gautam, Member (Technical)

**Appearance (through video conferencing):**

**For the Applicant:** Mr. Nausher Kohil, Advocate

*Per Shri H. V. Subba Rao, Member (Judicial)*

**ORDER**

1. It is an application filed by the Resolution professional seeking liquidation of the Corporate Debtor namely (M/S. PARTH CHEM IMPEX PVT. LTD.) on the ground that no resolution plan has been received by him, hence this application under Section 33 (1) of the Insolvency and Bankruptcy Code, 2016, praying following reliefs:

- a. *"To pass necessary order requiring Parth Impex Pvt. Ltd. to be liquidated in the manner as laid down in Chapter III of the Code*
- b. *To appoint the Applicant Mr. Vimal Kumar Aggarwal as the Liquidator in the liquidation of Parth Chem Impex Pvt. Ltd.*
- c. *To condone the delay in filing of this application.*

- d. *To pay fees to the liquidator in accordance with the Regulation 4(2) (b) of the Regulation.*
  - e. *To give direction to the Liquidator and the Registry of NCLT, Mumbai to intimate the concerned Registrar of Companies of the order of liquidation of the Corporate Debtor.*
  - f. *As per section 33(5) and that subject to section 52 of the Code, no suit or other legal proceedings shall be initiated by or against the Corporate Debtor, provided that a suit and other legal proceedings may be instituted by the liquidator on behalf of the Corporate Debtor with prior approval of this Bench.*
  - g. *This order of liquidation may, deemed to be intimation to the officers, employees and workman of the Corporate Debtor that this order is a notice of discharge.*
  - h. *That all powers of the Board of Director, key managerial personnel and the partners of the corporate debtor as the case may be shall cease to have effect and all such powers shall be vested in the Liquidator.”*
2. The Adjudicating Authority vide its order dated 20.08.2019 on a Petition filed by the Operational Creditor under Section 9 of the Code directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor namely M/s. PARTH CHEM IMPEX PVT. LTD., wherein Mr. Vinod Kumar Agrawal, was appointed as Interim Resolution Professional (IRP). Thereafter in the 1<sup>st</sup> Committee of Creditors (CoC) meeting held on 25.10.2019, Mr. Vinod Kumar Agrawal was resolved to be appointed as Resolution Professional (RP).
  3. The RP submits that the public announcement was made on 22.09.2019, in “The Free Press Journal” in English and in regional language in Marathi in “Navshakti”.
  4. It is further submitted that an advertisement was issued, inviting Expression of Interest in Form G on 26.12.2019 fixing 10.01.2020 as last date for submission of Expression of Interest by the Prospective Resolution Applicants (PRA).
  5. The CoC in its 1<sup>st</sup> meeting held on 25.10.2019 decided to appoint a Valuer. The RP accordingly 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.

6. The Resolution Professional submits that no resolution plan/expression of interest was received. The CoC in the 4<sup>th</sup> CoC meeting held on 16.03.2020 unanimously decided to liquidate the Corporate Debtor. Accordingly, the Resolution Professional filed this application for liquidation of the Company as provided u/s 33 of the Insolvency & Bankruptcy Code, 2016 (Code).
7. The Applicant/ Resolution Professional Mr. Vimal Kumar Agrawal, has agreed to act as liquidator to carry on the process of liquidation and given his consent to act as Liquidator.
8. Upon hearing the submissions of the Applicant and on reading the Application and the documents enclosed therein it is found, the RP has complied with the procedure laid down under the Code Regulations made thereunder. On verification, 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 for liquidation in the absence of any resolution plan. Hence ordered;

**ORDER**

- a. The Miscellaneous Application is hereby allowed.
- b. Mr. Vimal Kumar Agrawal, Registration No. IBBI/IPA-001/IP-P00741/2017-2018/11247, herein is hereby appointed as Liquidator as provided under Section 34(1) of the Code.
- c. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
- d. 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.

- e. 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.
- f. 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.
- g. 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.
- h. 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.
- i. 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.
- j. 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.

Sd/-

**SHYAM BABU GAUTAM**  
**MEMBER (TECHNICAL)**

Sd/-

**H. V. SUBBA RAO**  
**MEMBER (JUDICIAL)**