

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

10. I.A. 2679/2021

I.A. 2386/2021

I.A. 1807/2020

IN

C.P.(IB)-3493(MB)/2019

CORAM: MS. SUCHITRA KANUPARTHI, MEMBER (J)
SHRI CHANDRA BHAN SINGH, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **21.12.2021**

NAME OF THE PARTIES: Sagar E-Shop Pvt Ltd

V/s

Pan India Network Ltd

SECTION 7 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Ms. Sneha Nanandkar, counsel appearing for the Resolution Professional is present through virtual hearing.

I.A.2386/2021

The above Interlocutory Application has been filed by RP with the approval of the CoC regarding withdrawal of the consent of Mr. Hemant Sharma as liquidator because of his ill health. The counsel appearing for the RP Ms. Sneha Nanadkar, mentions that the bench may appoint appropriate liquidator. This Bench, therefore, appoints Ms. Sonu Gupta (rpsonugupta@gmail.com), Insolvency Professional, Registration No: IBBI/IPA-001/IP-P02261/2021-2022/13534 from the list of RPs as furnished by Insolvency and Bankruptcy Board of India.

Accordingly, the above Interlocutory Application bearing No. 2386/2021 is allowed and disposed of.

I.A. 1807/2020

The above Interlocutory Application has been filed for liquidation of the corporate debtor company. Accordingly, the above Interlocutory Application bearing No. 1807/2021 is allowed and detailed order would follow.

I.A. 2679/2021

The above Interlocutory Application has been filed by RP regarding certain related parties' transactions. The respondents are directed to file their reply within 3 weeks time, failing which their right to file reply would be forfeited and the matter would be decided on merits on the next date of hearing.

The registry is directed to serve notice on the respondent's to be present before this bench on the next date of hearing. List this matter on 23.02.2022.

Sd/-
CHANDRA BHAN SINGH
Member (Technical)

Sd/-
SUCHITRA KANUPARTHI
Member (Judicial)

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

I.A. 1807 OF 2020

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

Filed by
Mr. Hemant Sharma
Resolution Professional of:
Pan India Network Limited

...Applicant

In the matter of
C.P. No. 3493 of 2019

Sagar E-Shop Private Limited
D-201, Chandresh Chhaya CHS Ltd,
Kalyan Shil Road, Nilje Village,
Dombivali East, Thane - 421204

...Petitioner

Versus

Pan India Network Limited
135, Continental Building,
Dr. A.B. Road, Worli,
Mumbai, Maharashtra - 400018

...Corporate Debtor

Order delivered on: 21.12.2021

Coram:

Hon'ble Ms. Suchitra Kanuparthi, Member (Judicial)
Hon'ble Shri Chandra Bhan Singh, Member (Technical)

Appearance:

For the Applicant: Miss. Sneha Nanandkar, Advocate

1. The above application I.A. No. 1807/2021 is filed by Resolution Professional, Mr. Hemant Sharma seeking liquidation of Pan India Network Limited (hereinafter referred as Corporate Debtor) under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”), praying for following reliefs:

- a. For initiation of Liquidation of Pan India Network Limited (Corporate Debtor) in terms of Section 33 (1) (a) of Insolvency and Bankruptcy Code, 2016;*
- b. To appoint Mr. Hemant Sharma having Registration Number IBBI/IPA-002/IP-N00015/2016-17/10019 as Liquidator of the Corporate Debtor as per the provisions of Section 34 (1) of Insolvency and Bankruptcy Code, 2016.*

2. The brief facts of the application are as follows:

- A. The applicant mentioned that this Tribunal vide its order dated 09.10.2019 in Company Petition No. 3493 of 2018 admitted the petition under Section 7 of the Code, filed by Central Bank of India (hereinafter referred to as the “Financial Creditor”) and Corporate Insolvency Resolution Process (hereinafter referred to as the “CIRP”) was initiated against Pan India Network Limited, (hereinafter referred to as the “Corporate Debtor”). The applicant herein was appointed as the Interim Resolution Professional (hereinafter referred to as the “IRP”) of the Corporate Debtor by this Tribunal vide this Order dated 09.10.2019.
- B. It is further stated by the Counsel for the Applicant that an advertisement, inviting Expression of Interest (EoI) in Form G was published on 25.12.2019 in Free Press Journal (English)

and Navshakti (Marathi) circulated in Maharashtra, The Goan (English) and Bhangar Bhun (Konkani) circulated in Goa, Times of India (English) and Rozana Spokesman (Punjabi) circulated in Punjabi and Sikkim Reporter (English) and Samay Dainik (Nepali) circulated in Sikkim, 09.01.2020 being the last date for receipt of Express of Interest and 22.02.2020 being the last date for submission of Resolution Plan.

- C. The counsel states that after due consideration from the CoC, Form G was again published, inviting Expression of Interest (EoI) on 25.01.2020 in Free Press Journal (English) and Navshakti (Marathi) circulated in Maharashtra, The Goan (English) and Bhangar Bhun (Konkani) circulated in Goa, Times of India (English) and Rozana Spokesman (Punjabi) circulated in Punjabi and Sikkim Reporter (English) and Samay Dainik (Nepali) circulated in Sikkim, whereby the last date for receipt of Express of Interest was extended to 09.02.2020 and further the last date for submission of Resolution Plan was extended to 19.03.2020. Thereafter, the applicant received EoI from 1 entity i.e., Prudent ARC Limited (hereinafter referred to as the Prospective Resolution Applicant "PRA") but no Resolution Plan was received by the Applicant from the PRA till the last date of submission of the Resolution Plan.
- D. The CoC in its 5th meeting which was held on 24.03.2020 decided to liquidate the Corporate Debtor as there is no Resolution Plan received from the PRA. Therefore, the Committee of Creditors unanimously approved initiation of liquidation of the Corporate Debtor by passing the resolution and directed the Resolution Professional to file interlocutory

application and seek further directions from this Tribunal. In the same meeting of, CoC decided to appoint the Resolution Professional as Liquidator and the consent for the same is also been given by the Resolution Professional. Thereafter, the Committee decided to put the following resolution, the relevant extract of the resolution is reproduced herein below for ready reference:-

“RESOLVED THAT *the Resolution Professional be allowed to approach the Hon’ble National Company Law Tribunal, under Section 33 of the Insolvency & Bankruptcy code, 2016, with a request to pass an order pertaining to liquidation of the Corporate Debtor (Pan India Network Limited) in light of non-receipt of any resolution plan during the insolvency resolution process of the Corporate Debtor. Since the Courts are closed due to the spread of the Pandemic, COVID 19, the aforementioned Application shall be filed upon the reopening of the NCLT Mumbai.”*

“FURTHER RESOLVED THAT *in light of the consent given by Mr. Hemant Sharma to act as Liquidator in the instant matter, in terms of Section 34(1), the appointment of Mr. Hemant Sharma as the Liquidator of Pan India Network Limited, be and is hereby approved.”*

“FURTHER RESOLVED THAT *the professional fee to be mutually agreed between him and the Committee of Creditors in terms of Regulation 39D for offering his services as Liquidator and best estimated Liquidation Costs mutually agreed between him and the Committee of Creditors in terms of Regulation 39B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, shall be discussed in the First Joint Lenders Meeting, be and is hereby approved.”*

3. The Counsel for the Applicant submits that as the Applicant who was appointed as the liquidator in the 5th CoC meeting is not well and will not be able to perform the Liquidator's duties. Counsel for the Applicant have filed a separate I.A. No. 2386/2021 in which they have requested this Bench to appoint another Liquidator as per the IBBI list. So accordingly, this Bench had allowed the I.A. No. 2386/2021 vide an order dated 21.12.2021.
4. We have heard the Applicant and perused all the documents submitted by them. It is observed from the minutes of the 5th CoC meeting that as no resolution had been approved the CoC has, with 95.82% majority, decided to liquidate the Corporate Debtor and relying on the settled principle of law regarding the Commercial Wisdom of the CoC, we hereby allow this Interlocutory Application Number 1807 of 2020 and passed the following:

ORDER

1. The above I.A. No. 1807/2020 is allowed and the Corporate Debtor Pan India Network Limited is ordered to be liquidated.
 - a. As per the Applicants request in a separate I.A. No. 2386/2021 we hereby appoint, **Ms. Sonu Gupta**, having Registration No. IBBI/IPA-001/IP-P02261/2021-2022/13534 and having office at: 42/1201, 11th Floor, N.R.I. Complex, Seawoods Estates, Nerul, Navi Mumbai, Maharashtra - 400706 is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.

- b. 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.
- c. 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.
- d. 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.
- e. 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.
- f. 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.

- g. 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.
- h. 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.
- i. 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.

With the above directions, this application i.e. I.A. No. 1807 of 2020 is hereby allowed and disposed of.

Sd/-

Chandra Bhan Singh
MEMBER (TECHNICAL)

Sd/-

Suchitra Kanuparthi
MEMBER (JUDICIAL)