



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

**I.A. 1266 of 2022**

Under Section 33(1) of Insolvency &  
Bankruptcy Code, 2016

Filed by

**Kamal Kishor Gurnani,**

Having head office 702, Janki Centre,  
Dattaji Salvi Marg, Off Veera Desai Road,  
Andheri(west), Mumbai- 400053.

**...Resolution Professional/Applicant**

In the matter of

**CP (IB) No. 855 of 2020**

**Bank of India**

Star House,C-5, "G" Block, Bandra Kurla  
Complex, Bandra (East), Mumbai:400 051

**...Financial Creditor/Petitioner**

**Versus**

**Gajanan Gangamai Industries LLP**

2nd Floor, Tapdia Tereeces, Adalat Road,  
Mulay Bros, Aurangabad-431 001

**...Corporate Debtor**

**Order Delivered On: 11.10.2022**

**Coram:**

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

**Appearance:**

For the Applicant: Prajakta Menezes, Advocate

For the Committee of Creditors: Mr. Avinash R. Khanolkar,  
Advocate



**ORDER**

1. The above application is filed by **Kamal Kishor Gurnani**, Resolution Professional, (hereinafter referred to as the “Applicant”) seeking liquidation of **Gajanan Gangamai Industries LLP** (hereinafter referred to as the “Corporate Debtor”) under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”), praying for following reliefs:
  - a. *Pass an order directing the initiation of Liquidation of the Corporate Debtor in accordance with Chapter III of Part II of the Code.*
  - b. *Appoint Mr. Kamal Kishor Gurnani having IP Registration Number IBBI/IPA-001/P-P-01463/2018-2019/12338 as the Liquidator of the Corporate Debtor in accordance with Section 34 of the Code.*
  - c. *Pass ad interim and interim reliefs in terms of Clause (a) and (b)*
  - d. *Any other order which the Hon’ble NCLT may deem fit in the facts and circumstances of the case.*
  
2. The brief facts of the application are as follows:
  - A. That Tribunal vide order dated 22.09.2021 in Company Petition No. 855 of 2019 admitted the Petition under section 7 of the Code, filed by **Bank of India** (hereinafter referred to as the “**Financial Creditor**”) and Corporate Insolvency Resolution Process (hereinafter referred to as the “**CIRP**”) was initiated against **Gajanan Gangamai Industries LLP** (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.



- B. The Applicant submits that as per Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("CIRP Regulations") read with Section 13 of the Code a Public Announcement was made by the IRP on 01.10.2021 with respect to appointment of IRP and inviting claims from the creditors of the Corporate Debtor in The Free Press Journal (English) and Navakal (Marathi) of Mumbai Edition on 01.10.2021, which was circulated at the Registered Office of the Corporate Debtor.
- C. The abovementioned Public announcement was also published in The Indian Express (English) and Loksatta (Marathi) of Aurangabad Edition which was circulated at the principal office of the Corporate Debtor. The Applicant further submits that a Public announcement in Form-A was made on 01.10.2021 in two newspapers viz The Free Press Journal (English) and Navakal (Marathi) of Mumbai Edition. The said public announcement was also published in The Indian Express (English) and Loksatta (Marathi) of Aurangabad Edition which was circulated at the principal office of the Corporate Debtor is situated.
- D. On 28.10.2021 during the 1<sup>st</sup> meeting of the Committee of Creditors (hereinafter referred to as the "CoC"), the IRP briefed the members about the work undertaken by him after his appointment.
- E. During the 2<sup>nd</sup> CoC Meeting held on 12.11.2021, the Applicant proposed himself to be appointed as the Resolution Professional of the Corporate Debtor and the members of the CoC unanimously (100%) voted in favour of the appointment of Interim Resolution Professional as the Resolution Professional ("RP") of the Corporate Debtor. Further, the Resolution was passed for appointment of two



Registered Valuers accordingly as required under Regulation 27 of IBBI (IRP for Corporate persons) Regulations, 2016 and the information memorandum was prepared as provided under Regulation 36(1) of the said regulation.

- F. In the 3<sup>rd</sup> CoC Meeting held on 29.11.2021, the Resolution Professional informed the members about the delay in receiving the documents from the suspended directors. Further, the CoC members approved publication of Invitation of Expression of Interest in the newspaper with wide circulation in all editions of "The Financial Express" and "Navkal" of Mumbai editions where the registered office of the corporate Debtor is situated and "Lokmat Times" and "Loksatta" where the principal office and factory of the corporate is situated.
- G. The Applicant submits that in the 4<sup>th</sup> CoC Meeting conducted on 24.12.2021, Request for Resolution Plan (RFRP) and Evaluation Matrix (EM) was discussed and approved as per Regulation 36B of the CIRP Regulation.
- H. The Applicant further submits in the subsequent 5<sup>th</sup> CoC meeting held on 31.01.2022, it was decided to extend the last date for submission of Resolution Plan to 15.02.2022 as no plan(s) were received till the last date for submission of Resolution Plan as per the timelines of Form G.
- I. In the 6<sup>th</sup> CoC Meeting held on 16.02.2022, another extension till 28.02.2022 was granted for submission of Resolution Plan. The Applicant submits that as no Resolution Plan(s) were received despite second extension of the last date, the members of the CoC discussed



the option of taking the corporate debtor to liquidation as per Section 33 of the Insolvency and Bankruptcy Code, 2016.

- J. However, the resolution with respect to liquidation of the Corporate Debtor was not approved by majority of the CoC members in the 7<sup>th</sup> meeting of the CoC which was held on 02.03.2022.
- K. The Applicant submits that on 16.03.2022 the 8<sup>th</sup> meeting of the CoC was convened, wherein the resolutions pertaining to issue of fresh Form G were approved by the CoC members holding 58% of voting shares. However, the same were not implemented since the resolution with respect to the extension of CIRP timelines as per section 12 of the Code stood rejected due to the want of requisite majority i.e., 66% of voting shares.
- L. The Applicant further submits that during the 9<sup>th</sup> COC meeting held on 24.03.2022, the RP informed the members of the CoC that the CIRP of the Corporate Debtor expired on 21.03.2022. Further, the members of the CoC were apprised that as no Resolution Plan is received for the Corporate Debtor and the period of CIRP has also not been extended beyond 180 days according to section 12 of the Insolvency and Bankruptcy Code, 2016, liquidation of the corporate debtor is the only option available. Thus, the members of the CoC unanimously (100%) decided to opt for liquidation of the Corporate Debtor under Section 33 of the Insolvency and-Bankruptcy Code, 2016 and appoint the Applicant as the Liquidator in this regard.

***“RESOLVED THAT*** *the consent of the members of Committee of Creditors be and is hereby accorded for Liquidation of the Corporate Debtor under Section 33 of the insolvency and Bankruptcy CODE, 2016.*



**“RESOLVED FURTHER THAT** *the consent of members be and is hereby accorded to appoint Mr. Kamal Kishor Gurnani (IBBI Registration No. IBBI/IPA-001/IP/P-01463/2018-2019/12328) as the Liquidator of the Company”*

M. Heard the counsel appearing for the Resolution Professional and perused the record. The Counsel for the Resolution Professional submits that no Resolution Plan has been received and there is no option except to put the Corporate Debtor Company into Liquidation as per the Code as well as also to protect the asset of the Corporate Debtor from further deterioration. Since the COC with a required mandate of 100% voting approved for Liquidation of the Corporate Debtor in view of not getting any Resolution Plans, this Tribunal has very limited judicial review in such matters of commercial wisdom and therefore this Bench has no option except to allow the above Liquidation Application. The Counsel appearing for the Applicant also filed consent letter of Mr. Kamal Kishor Gurnani, Resolution Professional, to act as the Liquidator. In view of the above facts, this Bench feels that this is a fit case for ordering Liquidation as going concern of the Corporate Debtor. Accordingly, the Interlocutory Application Number 1266 of 2022 is allowed directing Liquidation of the Corporate Debtor. Accordingly, we pass the following:

**ORDER**

The above I.A. No. 1266 of 2022 is **allowed** and the Corporate Debtor, **Gajanan Gangamai Industries LLP** is ordered to be liquidated as a going concern.



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**Mr. Kamal Kishor Gurani**,, having Registration No. IBBI/IPA-001/P-P-01463/2018-2019/12338 and having office at 702, Janki Centre, Dattaji Salvi Marg, Off Veera Desai Road, Andheri(west), Mumbai- 400053 is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.

- a. 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.
- b. 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.
- c. 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.
- d. 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.
- e. 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.



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- f. 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.
- 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.

With the above directions, this application i.e. I.A. No. 1266 of 2022 is hereby allowed and disposed of.

**SD/-**

**ANURADHA SANJAY BHATIA  
MEMBER (TECHNICAL)**

**SD/-**

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