

IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT - I, SPECIAL BENCH, MUMBAI

**Under Section 33 (1) of the
Insolvency and Bankruptcy Code,
2016 for Liquidation of Corporate
Debtor**

I.A. NO. 1813 OF 2020

Filed by

Modilal Dhanraj Pamecha

C-802, Padmarag, J B Nagar, Near Jain
Temple, Andheri (E), Mumbai-400059.

...Applicant

In the matter of

C.P. (IB) No. 3419/MB/C-I/2019

Esszee Manufacturing Private Limited

Unit No. 9, Corporate Park II, 9th Floor,
VN Purav Marg, Near Swastik Chambers,
Chembur, Mumbai-400071

...Operational Creditor

versus

SPG Multi Trade Private Limited

F-10, Prabha Co- Op. Hsg. Soc. Ltd., R.B.
Mehta Marg, Ghatkopar (E), Mumbai-
400077.

...Corporate Debtor

Order Pronounced on: 04.12.2020

Coram:

Hon'ble Shri Harihar Prakash Chaturvedi (Member Judicial)

Hon'ble Shri Shyam Babu Gautam (Member Technical)

Appearance (via Video Conference) :

For the Resolution Professional: Modilal Dhanraj Pamecha (RP),
Adv. Manoj Mishra, C.S. Manish
Jha.

Per:

Shri Shyam Babu Gautam Member (Technical)

ORDER

1. The present application is moved by the Resolution Professional, Modilal Dhanraj Pamecha, (hereinafter called as "the applicant") under Section 33(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as "the Code") seeking orders for liquidation of the Corporate Debtor Company SPG Multi Trade Private Limited (hereinafter called as the "Corporate Debtor") and for passing an appropriate order/suitable and direction in the matter.
2. The Applicant through the present IA would submit that this Bench of NCLT, Mumbai (Court No. I) vide its order dated 03.03.2020 admitted the Petition (CP IB No 3419/MB/2019) under Section 9 of the Code, initiating Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") of the Corporate Debtor and appointed the Applicant herein as the Interim Resolution Professional (hereinafter called as the "IRP"). The IRP constituted Committee of Creditors (hereinafter called as the "CoC") on 26.06.2020 and the CoC in the 1st CoC meeting held on 04.07.2020, passed resolution confirming Modilal Dhanraj Pamela (Applicant) as Resolution Professional (hereinafter called as the "RP") of the Corporate Debtor.
3. It is submitted that Bhavesh M Rathod and Mukesh Kumar Jain were appointed as Valuers of the Corporate Debtor with the approval of CoC. The Applicant placed the valuation Report stating Fair Value and Liquidation Value before the CoC Members.
4. It is submitted that, in response to the Expression of Interest (EOI) received in Form-G, one Prospective Resolution Applicant

i.e. AVA Advisors & Trainers Private Limited showed interest but did not revert after being informed about the condition to be satisfied on his part.

5. It is submitted that the CIRP Period of 180 days expired on 30.11.2020 and the CoC in the 3rd CoC meeting held on 24.08.2020 passed the following Resolution to liquidate the Corporate Debtor with 100% voting share, Resolution as below:

"RESOLVED THAT in view of the Corporate Debtor not being able to be resolved in view of the fact that no prospective Resolution Applicant came ahead with any expression of interest, the Resolution Professional be and is hereby authorized to apply to the Hon'ble NCLT, Mumbai for the purpose of liquidation of the company under section 33(2) of Insolvency and Bankruptcy Code, 2016."

"RESOLVED FURTHER THAT Mr. Modilal Dhanraj Pamecha, the Resolution Professional is proposed to work as liquidator of the company on the same professional fee at which he was handling the Corporate Insolvency Resolution Process for the Corporate Debtor i.e. Rs. 50,000/- P.M. for initial six months and Rs 37,500/- P.M. (75%) for next six months."

6. The Applicant herein Modilal Dhanraj Pamecha, has given his consent to act as a Liquidator of the Corporate Debtor.
7. Upon hearing the Applicant and going through the pleadings this bench is inclined to order liquidation of the Corporate Debtor under section 33 of the code.

ORDER

The present IA No. 1813 of 2020 is allowed and stands disposed of accordingly. The Corporate Debtor, SPG Multi Trade Private Limited, shall be liquidated in the manner as laid down in Chapter-III of the Code with the following consequential directions:

- a) Modilal Dhanraj Pamecha, having Registration No. IBBI/IPA-001/IP-P01231/2018-19/12127 is appointed as Liquidator.
- b) The Liquidator shall issue public announcement stating that the Corporate Debtor is in liquidation.
- c) The Liquidator shall be entitled to same fees as professional fee at which he was handling the Corporate Insolvency Resolution Process for the Corporate Debtor i.e. Rs. 50,000/- P.M. for initial six months and Rs 37,500/- P.M. (75%) for next six months.
- d) The Moratorium declared under Section 14 of the code, 2016 of the code shall cease to operate.
- e) Subject to section 52 of the Code, 2016 no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- f) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- g) The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.
- h) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- i) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.

- j) The Liquidator is directed to send a copy of this Order to concerned Registrar of Companies and Insolvency and Bankruptcy Board of India, New Delhi.

Sd/-

**SHYAM BABU
GAUTAM**

Member (Technical)

Date: 04.12.2020

Sd/-

**HARIHAR PRAKASH
CHATURVEDI**

Member (Judicial)