

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH(COURT-I), KOLKATA**

IA (IB) No. 19/KB/2023  
in  
CP (IB) No. 227/KB/2022

*An Application under section 33 of Insolvency & Bankruptcy Code, 2016.*

*In the matter of*

**Ultramine Pipetech Private Limited (U25209WB2007PTC114987)**

*...Corporate Debtor*

And

**Mr. Manish Jain, IRP**

*...Applicant*

*-And-*

***Coram:***

**Shri Rohit Kapoor, Member (Judicial)**

**Shri Balraj Joshi, Member (Technical)**

***Appearances (through video conferencing):***

***For the Resolution Professional / Applicant***

1. Mr. Shaunak Mitra, Adv.
2. Ms. Shreya Choudhary, Adv.
3. Mr. Manish Jain, IRP

**Reserved for orders dated : 18.01.2023**

**Pronouncement of order dated : 22.08.2023**

**ORDER**

***Per Rohit Kapoor, Member (Judicial):***

1. This application has been filed by the Insolvency Professional upon the instructions of the Committee of Creditors ('CoC') seeking liquidation of the Corporate Debtor, viz., Ultramine Pipetech Private Limited

[CIN: U25209WB2007PTC114987], on the ground that CIRP will only increase the expenses.

2. This Adjudicating Authority vide its order dated 02.11.2022 on a Petition filed under section 10 of the Insolvency and Bankruptcy Code, 2016, directed initiation of the Corporate Insolvency Resolution Process ('CIRP') against the Corporate Debtor and the applicant was appointed as the Interim Resolution Professional ('IRP').
3. The Applicant submits that pursuant to his appointment as the IRP of the Corporate Debtor vide order dated 02.11.2022, had made a public announcement in one English Newspaper being Financial Express on 05.11.2022 in order to generate public awareness of the commencement of the CIRP.
4. The Applicant further submits that pursuant to the public announcement, he constituted the Committee of Creditors (CoC) and a report of the CoC was submitted to this Bench on 25.11.2022, since claims from Financial Creditor were received. Thereafter, the Applicant further submits the report of 1<sup>st</sup> Re-Constitution of Committee of Creditors.
5. The Applicant further contended that the 1<sup>st</sup> CoC meeting was held on 01.12.2022 and in the said CoC meeting it was noted that no one would likely be interested in submitting any resolution plan in the matter of the Corporate Debtor being a trading concern. The Applicant further states the order of this bench where the Corporation Debtor's submitted that the company does not have sufficient fund to meet out its liabilities and the company is in financial distress. The Promoters and Directors were also unable to contribute funds and new investors also refused to invest in the company and therefore, they suggested the IRP to pass a resolution for the initiation of Liquidation process of the Corporate Debtor.
6. The applicant further submits that he suggested for publication of Form G before filing an application for the Liquidation process of the CD, because, if no EoI is received in the due period, then they can file application for

liquidation of the CD, but CoC dissented by 100% voting for publication of Form G for invitation of EoI and the CoC voted by 100% in favour of initiation of Liquidation of the Corporate Debtor.

7. The Ld. Counsel for the applicant further states that in the 2<sup>nd</sup> CoC meeting held on 21.12.2022, CoC were of the opinion that the Applicant in case of liquidation of the Corporate Debtor, Liquidator should explore the option of selling the Corporate Debtor as a going concern. Further, CoC has unanimously approved the fees of the proposed Liquidator which would be INR 60,000/- per month plus applicable GST & out of pocket expenses like travelling, lodging, etc. for the first three months and the remuneration of the first 3 months shall be paid in accordance with Regulation 4 of IBBI Regulations, 2016.
8. Further, it may kindly be noted that as per IBBI Circular dated 18<sup>th</sup> July, 2023, it was decided that in cases where the CD has not been successfully resolved or resolution plan has been failed, IP who has been assigned to conduct the resolution process of the CD, may not be recommended to continue to act as Liquidator to carry on the process of liquidation under Regulation 3(1) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. Therefore, the Applicant being the IRP of **Ultramine Pipetech Private Limited** would not be recommended as Liquidator.
9. We have considered the submission made by the learned Counsel on behalf of the Applicant/IRP and perused the record.
10. Section 33(2) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Debtor where the resolution professional, at any time during the CIRP but before confirmation of the resolution plan, intimates the Adjudicating Authority of the decision of the CoC approved by not less than sixty-six percent of the voting share, to liquidate the Corporate Debtor. In the present case, the CoC has resolved by 100% voting share to liquidate the Corporate Debtor.

11. This Bench, therefore, hereby orders as follows: -

- a. Prayers as sought for in I.A. (IB) No. 57/KB/2023 filed by **Mr. Manish Jain**, IRP of **Ultramine Pipetech Private Limited**, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;
- b. **Mr. Rakesh Kumar Singh**, having Regn. No. **IBBI/IPA-001/IP-P00443/2017-18/10786**, email: [rakesh202@hotmail.com](mailto:rakesh202@hotmail.com) is hereby appointed as Liquidator as provided under section 34(1) of the Code.
- c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, *i.e.*, Financial Express (English) and Aajkaal (Bengali) (Kolkata edition), stating that the Corporate Debtor is in liquidation.
- e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
- f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- g. On initiation of the liquidation process but 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, as provided in section 33(5) of the Code read with its proviso.

h. In accordance with section 33(7) of the Code, 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.

i. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, Kolkata, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.

12. The application bearing **IA (IB) No. 19/KB/2023** shall stand disposed of in accordance with the above directions.

13. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.

14. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

15. List the main **CP (IB) No. 227/KB/2022** for reporting progress on **13<sup>th</sup> October 2023**.

**(Balraj Joshi)**  
**Member (Technical)**

**(Rohit Kapoor)**  
**Member (Judicial)**

Signed on this, the 22<sup>nd</sup> day of August, 2023.

M. Jana, PS