

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD (COURT NO. II)**

IA/498/2021

IN

CP (IB) 332/9/NCLT/AHM/2020

(Under Section 33(1)(a) and 34(1) of the Insolvency and Bankruptcy Code,
2016)

In the Matter of:

**Mr. Keyur J. Shah,
Resolution Professional of
M/s. Gokul Ceramic Private Limited**

...Applicant

AND

In the Matter of:

SVM Cera Private Limited

...Operational Creditor

Versus

M/s. Gokul Ceramic Private Limited

...Corporate Debtor

Order Pronounced On: 07.06.2022

Coram:

**DR. DEEPTI MUKESH,
HON'BLE MEMBER (JUDICIAL)
AJAI DAS MEHROTRA,
HON'BLE MEMBER (TECHNICAL)**



MEMO OF PARTIES

Mr. Keyur J. Shah,
Resolution Professional of
M/s. Gokul Ceramic Private Limited
Having office at:
1007, Sun Foundation,
Manekbaug Society, Ambawadi,
Ahmedabad, Gujarat- 380015.

...Applicant

In the Matter of:

SVM Cera Private Limited
Having office at:
5188/A, GIDC Estate,
Ankleshwar, Bharuch,
Gujarat-393002.

...Operational Creditor

Versus

M/s. Gokul Ceramic Private Limited
Having office at:
8-A, National Highway,
Village Dhuva, Wankaner,
Rajkot-363622.

...Corporate Debtor

Present:

For the Applicant: Ms. Noopur K. Dalal

ORDER

1. The instant Application is filed by Mr. Keyur J. Shah, Resolution Professional of corporate debtor M/s. Gokul Ceramic Private Limited,



under Under Section 33(1)(b) and 34(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “Code”) for liquidation of the Corporate Debtor.

2. This Adjudicating Authority, vide order dated 15.01.2021, had admitted the application filed by SVM Cera Private Limited under Section 9 of the Code for initiation of Corporate Insolvency Resolution Process (‘CIRP’) of the Corporate Debtor (M/s. Gokul Ceramic Private Limited) and appointed Mr. Darshan Bharatbhai Patel as the Interim Resolution Professional (‘IRP’).
3. The applicant submitted that the public announcement was made and claims were invited by the IRP. In compliance of Section 21 of Code read with Rule 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as “CIRP Regulation”), the IRP constituted CoC. In the 1st CoC meeting, it was resolved to replace the IRP Mr. Darshan Bharatbhai Patel and to appoint resolution professional Mr. Keyur J Shah, which was confirmed by this Adjudicating Authority vide order dated 22.03.2021.
4. In the 4th CoC meeting held on 11.06.2021, the CoC members deliberated the position of the corporate debtor and were of the opinion that since there are no assets or properties in the corporate debtor, publishing of Form G will not be of any help in bringing resolution. The



CoC in its 5th meeting held on 13.07.2021 decided to liquidate the affairs of the corporate debtor due to non-availability of resolution plan and there was no chance of revival of the corporate debtor, and in the absence of any other favorable alternative, the corporate debtor may be taken towards liquidation. The CoC also decided not to go for publication of form G and in the 5th meeting they decided to liquidate the affairs of the corporate debtor and also resolved to appoint the Applicant herein Mr. Keyur J Shah as a liquidator as per the Code. The resolution of CoC is reproduced herein:

“Resolved further that pursuant to Regulation 4 of IBBI (Liquidation Process) Regulations, 2016 the liquidator shall be entitled to a fee of Rs. 40,000/- plus GST per month.”

5. Taking into consideration the above facts in present case and as per provisions of Section 33 of Code which are reproduced for reference, we consider to order the liquidation of corporate debtor.

*“Section- 33. Initiation of liquidation. –
 (1) Where the Adjudicating Authority, -
 (a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast-track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30;*



(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein, it shall -

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation;

and

(iii) require such order to be sent to the authority with which the corporate debtor is registered.

(2) where the resolution professional at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the adjudicating authority of the decision of the committee of creditor approved by not less than sixty-six percent of the voting share to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clause (i), (ii) and (iii) of clause (b) of Sub-Section (1)''

6. We hereby pass the order of liquidation of the Corporate Debtor M/s.

Gokul Ceramic Private Limited, with following directions:

- a. The liquidation of the Corporate Debtor is effective from the date of this order and the Moratorium declared vide order dated 15.01.2021 u/s 14 of the Code shall cease to exist. The moratorium u/s 33(5) of the Code shall commence from the date of this order.
- b. The CoC had resolved to appoint the RP as the Liquidator. Mr. Keyur J. Shah resolution professional has filed his written consent to act as liquidator in form AA which is on



record. We hereby appoint Resolution Professional Mr. Keyur J. Shah (Registration No. IBBI/IPA-002/IP-N00244/2017-2018/10729) as the liquidator of the Corporate Debtor, i.e., M/s. Gokul Ceramic Private Limited who shall complete the liquidation process as per the provisions of the Code read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016.

- c. This order of liquidation under Section 33 of the Code 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; and
- d. All the powers of the Board of Directors and key managerial personnel of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested in the Liquidator; and
- e. The Liquidator shall take all steps as per the provisions of the Code and shall endeavour to complete the liquidation process as prescribed under the Code.

- 7. A copy of the order shall be communicated to the applicant resolution professional and the corporate debtor as well as to the liquidator above



named. The liquidator is to be informed of his said appointment by the registry. In addition, a copy of said order shall also be forwarded to IBBI for its records and RoC for updating the master data. RoC shall send a compliance report to the registrar NCLT.

8. Application is allowed and disposed of in terms of above order.

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**AJAI DAS MEHROTRA
MEMBER (TECHNICAL)**



-SD-

**DR. DEEPTI MUKESH
MEMBER (JUDICIAL)**

Abhishek Singh

Certified to be True Copy of the Original


Joint Registrar
NCLT, Ahmedabad Bench
Ahmedabad