



**IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT VI, NEW DELHI**

I.A. 6262/2022

IN

Company Petition No. (IB) – 3105/(ND) /2019

*Under Regulation 33 (2) Of The Insolvency And Bankruptcy Board
of India (Liquidation Process) Regulations, 2016*

In the matter of:

M/S. PPG ASIAN PAINTS PVT. LTD.

.....OPERATIONAL CREDITOR

VERSUS

M/S. HARSH SPECIALITY COATING PVT. LTD.

..... CORPORATE DEBTOR

AND IN THE MATTER OF:

MRS. RESHMA MITTAL

**(LIQUIDATOR FOR M/S HARSH SPECIALITY COATING PVT.
LTD.)**

At: R-4/39, Raj Nagar, Ghaziabad-201002

.....APPLICANT

Order Pronounced on: 26.04.2023



Coram:

Shri. Bachu Venkat Balaram Das, Hon'ble Member (Judicial)

Shri. Rahul Bhatnagar, Hon'ble Member (Technical)

For the Applicant: Mrs. Reshma Mittal

ORDER

PER- BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)

1. The present Application has been filed by the Applicant under Regulation 33 (2) of the Insolvency And Bankruptcy Board of India (Liquidation Process) Regulations, 2016 praying for the following reliefs:
 - a. To allow the present Application and permit the Liquidator to sell the goods of the Corporate Debtor through private sale;
 - b. Pass any other order deemed fit by this Adjudicating Authority in the interest of Justice.
2. The brief facts as averred by the Applicant for filing the present Application are as follows:
 - i. That the Corporate Insolvency Resolution Process of Harsh Speciality Coating Pvt. Ltd. (hereinafter referred as



Corporate Debtor) was initiated by this Tribunal vide order dated 12.02.2021.

- ii. That the Committee of Creditors (CoC) in their sixth meeting held on 19.10.2021 decided to liquidate the Corporate Debtor and appoint Mrs. Reshma Mittal as the liquidator for the Corporate Debtor, pursuant to which an application under section 33(2) of the IB Code, 2016 was filed and the same was allowed by this Tribunal on 15.02.2022 confirming the appointment of Mrs. Reshma Mittal as the Liquidator of the Corporate Debtor.
- iii. That during the process of liquidation, the Liquidator realized that there are as such no assets or capital left with the Corporate Debtor and the only remaining assets were the expired old stock consisting of Chemicals, Paints, Water base Coating, Polish, Toners and old Furniture. The Liquidator for the purpose of the sale of same made the publication for the e-auction of the goods on 20.06.2022 in Financial Express, English Newspaper (Delhi Edition) and Jansatta, Hindi Newspaper (Delhi edition). However, the same turned out to be futile. Only one bidder i.e. M/s Vivek Coating had participated and despite depositing the



Earnest Money Deposit (EMD) the bidder did not turn up. The EMD amount was forfeited by the liquidator and sale was cancelled.

- iv. That the Liquidator attempted a second E-Auction by reducing the reserve price by 25%. However, the same again turned out to be futile as only one bidder i.e. M/s Jagdamba Petroleum India Private Limited had participated and despite depositing the EMD the bidder did not turn up.
 - v. That the Resolution Professional had appointed the registered valuers on 02.09.2021 to conduct the valuation of goods of the corporate debtor. As per the valuation reports dated 06.10.2021 and 11.10.2021 submitted by the registered valuers, the value of goods of corporate debtor is nil.
 - vi. That despite various endeavors and attempts on part of the Liquidator, no one is ready to purchase the goods (paint cannisters) of the Corporate Debtor as the same has been expired long ago and due to their nature the same cannot be utilized for any further purpose.
- 3.** We have gone through the Application filed by the Liquidator seeking permission to sell the assets of the Corporate Debtor



through private sale. Regulation 33 of the IBBI (Liquidation Process) Regulations, 2016 enjoins upon the liquidator to seek prior permission of the Adjudicating Authority to effect the private sale. It appears that in spite of several e-auctions, the Liquidator could not succeed in selling the assets of the Corporate Debtor. Therefore, In light of the above, keeping in mind the objective of IBC, 2016 i.e. maximisation of value of assets, we allow the Liquidator to sell the goods of the Corporate Debtor through private sale. While exploring the possibility of private sale, the Liquidator shall adhere to the provisions of the Insolvency and Bankruptcy Code, 2016 and the IBBI (Liquidation Process) Regulations, 2016, with an ultimate objective of maximizing the value of the assets.

4. I.A. 6262/ND/2022 stands allowed and disposed off.

Let a copy of order be served to parties.

SD/-

(RAHUL BHATNAGAR)
MEMBER (TECHNICAL)

SD/-

(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)