

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

8. I.A. 418/2022

In

C.P.(IB)-3116(MB)/2019

CORAM: SHRI H. V. SUBBA RAO, MEMBER (J)
SHRI SHYAM BABU GAUTAM, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **07.04.2022**.

NAME OF THE PARTIES: M/s mayank Arora & Co

V/s

Pacific Shares and Stock Broker Limited.

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Counsel for the Resolution Professional, Mr. Yahya Batatawala is present through virtual hearing.

I.A. 418/2022

Heard counsel appearing for the RP Mr. Yahya Batatawala. The above Application is filed for the Liquidation of the Corporate Debtor Company. The above I.A. is allowed. Detailed order will follow.

Sd/-
SHYAM BABU GAUTAM
Member (Technical)

Sd/-
H.V. SUBBA RAO
Member (Judicial)

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

I.A. 418 OF 2022

IN

CP (IB) - 3116/MB/2019

Under Section 33 of the Insolvency &
Bankruptcy Code, 2016

Filed by

Mr. Pawan KR Agarwal

Resolution Professional for:

Pacific Shares and Stock Broker Limited

...Applicant

In the matter of

M/s Mayank Arora and Co.

Office No. 268, 2nd Floor,

Udhyog Bhavan, Sonawala Road,

Goregaon (East), Mumbai - 400063

...Operational Creditor

Versus

**Pacific Shares and Stock Broker
Limited**

419B, 4th Floor, Plot No. 21,

Panchratna, Mama Parmanand Marg,

Opera House, Girgaon,

Mumbai - 400004

...Corporate Debtor

Order delivered on: 07.04.2022

Coram:

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

Hon'ble Shri Shyam Babu Gautam, Member (Technical)

Appearance: For the Applicant: Mr. Yahya Batatawala, Advocate a/w
Mr. Pawan Kumar Ramadhan Agarwal, Resolution Professional

1. The above application I.A. No. 418/2022 is filed by Resolution Professional, Mr. Pawan Kumar Ramadhan Agarwal (hereinafter referred to as the “Applicant”) seeking liquidation of Pacific Shares and Stock Broker Limited (hereinafter referred to as the “Corporate Debtor”) under Section 33 of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”), praying for following reliefs:
 - a. *To pass an Order under Section 33 of the Insolvency and Bankruptcy Code, 2016 to initiate the Liquidation Process against Pacific Shares and Stock Broker Limited.*
 - b. *To pass such other Order or Orders as this Hon’ble Tribunal shall deem fit and expedient.*
2. The brief facts of the application are as follows:
 - A. The Applicant mentions that this Tribunal vide its order dated 28.07.2021 in Company Petition No. (IB) 3116/MB/2019 admitted the petition under Section 9 of the Code, filed by Mayank Arora & Co. (hereinafter referred to as the “Operational Creditor”) and Corporate Insolvency Resolution Process (hereinafter referred to as the “CIRP”) was initiated against Corporate Debtor. Mr. Pawan Kumar Ramadhan Agarwal was appointed as the Interim Resolution Professional (hereinafter referred to as the “IRP”) of the Corporate Debtor by this Tribunal.
 - B. It is further stated by the Applicant that on 06.08.2021 a public announcement was made inviting claims from the Creditors of the Corporate Debtor in two newspapers namely

The Free Press Journal, Mumbai Edition (English Newspaper) and Navshakti, Mumbai Edition (Marathi Newspaper).

- C. On 26.08.2021, in the first meeting of the Committee of Creditors (hereinafter referred to as the “CoC”) the Applicant was appointed as the Resolution Professional which was unanimously approved by CoC in favour of the same.
- D. The Counsel for the Applicant states that an advertisement, inviting Expression of Interest (EoI) in Form G was published on 09.10.2021 in The Free Press Journal (English Newspaper) and Navshakti (Marathi Newspaper), 26.10.2021 being the last date for receipt of Express of Interest and 16.12.2021 being the last date for submission of Resolution Plan. Thereafter, no Resolution Plan was received by the Applicant till the last date of submission of the Resolution Plan.
- E. On 30.12.2021, in the 4th CoC Meeting the members decided to unanimously opt for Liquidation of the Corporate Debtor as well as appointing the Applicant as the Liquidator of the Corporate Debtor, as no Resolution Plan has been received by the Applicant. The relevant extract of the resolution is reproduced herein below for ready reference:-

“RESOLVED THAT *the Corporate Debtor be liquidated and an application be made to the Adjudicating Authority to consider passing of appropriate order requiring the Corporate Debtor to be liquidated in the manner as laid down in Insolvency and Bankruptcy Code 2016 and Rules framed there under. Resolution Professional be and is authorized to do the needful in this manner.”*

“FURTHER RESOLVED THAT *the RP Mr. Pawan KR Agarwal be appointed as Liquidator of the Corporate Debtor if approved by the Adjudicating Authority at a remuneration of Rs. 25,000/- per month subject to*

maximum of Rs. 3,00,000/- . The consent of the proposed Liquidator was considered by the CoC.”

3. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, it is observed from the minutes of the 4th CoC meeting that the CoC has unanimously decided to liquidate the Corporate Debtor. The CoC has appointed the Applicant as Liquidator to carry on the process of Liquidation of the Corporate Debtor. The Applicant has agreed to act as Liquidator to carry on the process of Liquidation and given his consent to act as Liquidator. This bench, therefore allows the above Interlocutory Application Number 418 of 2022 and passed the following:

ORDER

1. The above I.A. No. 418/2022 is allowed and the Corporate Debtor Pacific Shares and Stock Broker Limited is ordered to be liquidated.
 - a. **Mr. Pawan Kumar Ramadhan Agarwal**, having Registration No. IBBI/IPA-001/IP-P00414/2017-18/10737 and having office at: 42, Gopal Bavan, 199, S.G. Marg, Marine Lines (E), Mumbai - 400002 is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
 - b. That the Liquidator for the conduct of Liquidation proceedings would be entitled to a remuneration of Rs. 25,000/- per month subject to maximum of Rs. 3,00,000/-
 - c. 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.

- d. 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.
- e. 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.
- f. 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.
- g. 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.
- h. 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.
- i. 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. 418 of 2022 is hereby allowed and disposed of.

Sd/-

Shyam Babu Gautam
MEMBER (TECHNICAL)

Sd/-

H.V. Subba Rao
MEMBER (JUDICIAL)