

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
COURT – IV

Item No.101

IA/2411/ND/2022 IN IB/613/ND/2019

IN THE MATTER OF:

State Bank of India	...	Applicant
Versus		
Shri Lal Mahal Ltd.	...	Respondent

Order under Section 33 of IBC, 2016.

Order pronounced on 19.09.2023

CORAM:

**MR. MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)**

**DR. BINOD KUMAR SINHA,
HON'BLE MEMBER (TECHNICAL)**

ORDER

Order pronounced in open Court vide separate sheets.

IA/2411/ND/2022 in IB/613/ND/2019 stands **allowed**.

Sd/-

Sd/-

**DR. BINOD KUMAR SINHA
MEMBER (TECHNICAL)**

**MANNI SANKARIAH SHANMUGA SUNDARAM
MEMBER (JUDICIAL)**

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

COURT-IV

I.A.(IBC)/2411/2022
IN
C.P.(IB) No.613/ND/2019

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

IN THE MATTER OF:

Mr. Sanjeev Ahuja
Resolution Professional
M/s. Nutrionex Manufacturers Limited
(formerly known as M/s. Shri Lal Mahal Limited)
... Applicant

IN THE MATTER OF:

State Bank of India
...Financial Creditor

Versus

M/s. Shri Lal Mahal Limited
...Corporate Debtor

CORAM:

SH. MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)

DR. BINOD KUMAR SINHA,
HON'BLE MEMBER (TECHNICAL)

Order Delivered on: 19.09.2023

ORDER

PER: DR. BINOD KUMAR SINHA, MEMBER (TECHNICAL)

The instant application i.e., I.A./2411/ND/2022 is filed by Mr. Sanjeev Ahuja ('Applicant') Resolution Professional of M/s. Nutrionex Manufacturers Limited, formerly known as M/s. Shri Lal Mahal Limited seeking liquidation of M/s. Nutrionex Manufacturers Limited ('Corporate Debtor') under Section 33 of the Insolvency and Bankruptcy Code, 2016 ('Code') praying for the following relief(s):-

- a) "To allow the present Application and pass appropriate orders under the IB Code;
- b) To pass such other or further order that Hon'ble Adjudicating Authority may deem necessary in the facts and circumstances of the case."

2. The brief facts of the case leading to filing of this application as averred by the applicant are as follows:

- i) The applicant submits that the Corporate Insolvency Resolution Process was initiated against M/s. Nutrionex Manufacturers Limited, formerly known as M/s. Shri Lal Mahal Limited ('Corporate Debtor') vide this Adjudicating Authority's order dated 25.02.2021 in an application C.P.(IB)/613/ND/2019 under Section 7 of the Code, 2016 filed by State Bank of India ('Financial Creditor') and the applicant was appointed as the Interim Resolution Professional of the Corporate Debtor and was later confirmed as the Resolution Professional.
- ii) The applicant submits that the public announcement in terms of Regulation 6(1) of the CIRP Regulations, 2016 was made in Form - A on 03.03.2021 inviting the claims from public, consequent to which Committee of Creditors ('CoC') was constituted comprising of 6 (six) members. The composition of committee of creditors of the Corporate Debtor is as follow:-

Name of Financial Creditor	Security	Voting Share
State Bank Of India	Secured	68.41%
Bank Of Baroda	Secured	11.37%
Bank Of India	Secured	6.27%
Central Bank Of India	Secured	6.32%
Union Bank Of India	Secured	4.11%
IDBI Bank Limited	Unsecured	3.52%

- iii) The invitation for expression of Interest in Form-G was published on 31.05.2021 in Business Standard both Hindi and English version (All India Edition). Pursuant to publication in Form-G, the applicant had received expression of interest from two (2) prospective resolution applicants ('PRA'). Out of the two PRAs, one was found ineligible and hence the other PRA namely M/s. Kendriya Bhandar was qualified to the final list of PRAs for submission of Resolution Plan.
- iv) M/s. Kendriya Bhandar submitted their Resolution Plan dated 17.07.2021 and the same was placed before the Committee of Creditors in its 3rd CoC Meeting dated 24.08.2021. The COC in the said meeting had decided to extend the timelines for EOI to understand the general interest in the market in the hope for better price discovery with an option to current Resolution Applicant to better their offer as well.
- v) The invitation for expression of Interest in Form-G was re-published on 08.09.2021. Pursuant to republication of Form-G, an Expression of Interest was received from RKG-1, an Alternative Investment Fund on 23.09.2021. That RKG Fund-1 had requested extension of timelines to submit resolution plan, however, in spite of extended timelines RKG Fund-I was not able to submit the Resolution Plan. Resultantly, the COC in its 5th CoC Meeting held on 3.12.2021 had

decided to consider the Resolution Plan submitted by M/s. Kendriya Bhandar.

- vi) The revised Resolution Plan dated 28.01.2022 received from M/s. Kendriya Bhandar was tabled before the CoC members in the 7th CoC meeting dated 17.02.2022. The CoC members sought clarity on certain aspects of the Resolution Plan whereby the Resolution Applicant had provided options to the CoC with regard to assignment of debt. That some of the CoC members had expressed their concern over the option of assignment of the debt as the same was under dispute before various forums and sought more clarity on the same.
- vii) The CoC in its 8th COC meeting dated 10.03.2022 after discussion came to hold the opinion that the Resolution Plan dated 28.01.2022 should be considered without the assignment of debt provisions. Further, during the 9th CoC meeting dated 14.03.2022, the Applicant/Resolution Professional and the CoC's counsel expressed their view that the plan be considered without the assignment of debt provisions to avoid any potential litigation in the future.
- viii) The extensions and exclusions sought in the Corporate Insolvency Resolution Process of the Corporate Debtor by the Applicant and allowed by this Hon'ble Adjudicating Authority are as follows:-

Extension/Exclusion Sought	Adjudicating Authority order
The COC in its 3rd COC meeting held on 24th August 2021 had approved seeking of an extension of the CIRP period for further period of 90 days beyond 180 days as per Section 12 of the Insolvency and Bankruptcy Code, 2016.	This Adjudicating Authority vide order dated 07.09.2021, had allowed the extension of the CIRP Period by further 90 days from August 28, 2021 i.e. till November 26, 2021

<p>The applicant had filed an application bearing IA No. 3897/ND/2021 seeking extension of 90 days (beyond 180 days) for completion of corporate insolvency resolution process of the Corporate Debtor, which was due to expire on August 28, 2021.</p>	
<p>An application bearing IA No. 5325/ND/2021 was filed by the RP seeking grant of exclusion of 49 days i.e. from April 19, 2021 to June 7, 2021 (time lost in effectively carrying the CIRP due to the lockdown imposed by the government) from the time-limit for completion of CIRP as provided under section 12 of the IB Code.</p>	<p>The said application was allowed by the Hon'ble Adjudicating Authority vide its order dated 22.11.2021. Accordingly, the CIRP period in respect of the Corporate Debtor was due to expire on January 14, 2022</p>
<p>The RP had filed another application bearing IA-434/ND/2022 under section 12(2) of IB Code read with Regulation 40(2) of the CIRP Regulations and Rule 11 of the NCLT Rules, 2016 before the Hon'ble NCLT seeking extension of another 60 days beyond 270 days as the CIRP</p>	<p>The Hon'ble NCLT vide its order dated January 28, 2022 had allowed the extension of 60 days beyond the period of 270 days.</p>

<p>period was expiring on January 14, 2022.</p>	
<p>Since the CIRP period was ending on 15-03-2022, the CoC in its 9th CoC Meeting had unanimously decided to seek an extension of 30 days to allow the COC to consider and vote on the Resolution Plan.</p> <p>The Applicant had filed an application No. 1215/ND/2019 seeking extension from NCLT. The said application was listed on 16.03.2022 and was reserved on the same day.</p>	<p>The Hon'ble Adjudicating Authority vide order dated 11.04.2022 had dismissed the I.A./1215/ND/2019 seeking extension of 30 days.</p>

- ix) The Applicant being aggrieved with the Adjudicating Authority's order dated 11.04.2022 had preferred an appeal before the Hon'ble Appellate Authority bearing Comp. Appl. (AT)(Ins.) 419 of 2022. The CoC on 26.4.2022, during the pendency of the Comp. Appl. (AT)(Ins.) 419 of 2022 had informed the Hon'ble Appellate Tribunal of their view that no further extension was required in the present matter . Accordingly, the Hon'ble NCLAT vide its order dated 26.04.2022 in Comp. Appl. (AT)(Ins.) 419 of 2022 had dismissed the said appeal.
- x) Further, the CoC vide email dated 27.4.2022 and 4.05.2022 have suggested the name of Mr. Debashish Nanda (IBBI/IPA003/IP-N00040/2017-18/10316) to be appointed as Liquidator in the matter.

3. We have considered the submissions made by the Learned Counsel on behalf of the applicant/Resolution Professional and upon perusing the material available on record, it is seen that in the instant case, the Form-G was issued on two occasions and pursuant to the same, the CoC had received Resolution Plan from sole eligible Prospective Resolution Applicant namely M/s. Kendriya Bhandar. The CoC evaluated in detail the proposed Resolution Plan and the members of CoC were in conflict with regard to the issue of assignment of debt. The maximum period allowed to complete CIRP i.e., 330 days of the Corporate Insolvency Resolution Process of the Corporate Debtor ended on 15.03.2022.
4. The Applicant, thereafter, had filed an application No. 1215/ND/2019 before this Adjudicating Authority seeking extension of further time period of 30 days. This Adjudicating Authority vide its order dated 11.04.2022 in I.A./121/2022 after analyzing the conspectus of the CIRP of Corporate Debtor had dismissed the said application. The order dated 11.04.2022 in I.A./121/2022 was challenged before the Hon'ble Appellate Authority in Comp. Appl. (AT)(Ins.) 419 of 2022. The Hon'ble Appellate Authority had vide order dated 26.04.2022 after taking note of the submissions of the CoC had dismissed the Comp. Appl. (AT)(Ins.) 419 of 2022. The relevant part of order dated 26.04.2022 in Comp. Appl. (AT)(Ins.) 419 of 2022 is extracted below:-

“2. We have issued notice on 18.04.2022 and when the matter was taken up, Shri Ankur Mittal, Learned Counsel for the Committee of Creditors (CoC) has appeared and submitted that in view of the fact that twice Expression of Interest has issued and no plan has come up and there is no purpose in granting any extension to the CIRP period. In view of the stand which has been placed before this Tribunal today which was subsequently taken by the CoC, we see no reason to entertain this Appeal. The Appeal is dismissed.”

5. At this juncture, it is relevant to refer Section 33(1)(a) of the Code, 2016 and the same is reproduced herein below:-

“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; or

(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.”

6. Thus, if the Adjudicating Authority does not receive a Resolution Plan within the maximum time period allowed under Section 12 for completion of CIRP, it is empowered to pass an order for initiation of Liquidation of the Corporate Debtor. It is also seen from the record that the consent of the proposed Liquidator namely Mr. Debashis Nanda in Form AA to act as the Liquidator of the Corporate Debtor along with the certificate of Registration is placed on record as Annexure A-9 to the present Interlocutory Application.

7. In light of the above, the instant application **I.A./2411/ND/2022** is **allowed** and M/s. Nutrionex Manufacturers Limited, formerly known as M/s. Shri Lal Mahal Limited (‘Corporate Debtor’) is ordered to be liquidated with the following directions:

a. Mr. Debasis Nanda, having IBBI Registration No. IBBI/IPA-003/IP-

N00040/2017-2018/10316, having e-mail id: dnanda.cma@gmail.com is hereby appointed as the Liquidator of the Corporate Debtor as provided under Section 34(1) of the Code, 2016. Mr. Debasis Nanda, having IBBI Registration No. IBBI/IPA-003/IP-N00040/2017-2018/10316, shall file a valid AFA and disclosure about non-initiation of any disciplinary proceedings against him, within five (5) days of pronouncement of this order

- b. 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.
- c. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence.
- d. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter cease to exist. All these powers henceforth vest with the Liquidator appointed under Section 34(1) of the Code, 2016.
- e. 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.
- f. 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.
- g. 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
- h. The liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.
- i. The Liquidator shall submit Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.
- j. Copy of this order be sent to the Corporate Debtor, CoC members,

Liquidator, IBBI and RoC, NCT of Delhi & Haryana for taking necessary steps.

With the above directions, this application i.e., **I.A./2411/ND/2022 in Company Petition No. (IB)- 613 (PB)/2019** is hereby allowed and disposed.

Sd/-
(DR.BINOD KUMAR SINHA)
MEMBER (T)

Sd/-
(MANNI SANKARIAH SHANMUGA SUNDARAM)
MEMBER (J)