

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

9. I.A. 777/2022
IN
C.P.(IB)-4227(MB)/2019

CORAM: SHRI. H.V.SUBBA RAO, MEMBER (J)
SHRI CHANDRA BHAN SINGH, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **16.06.2022**

NAME OF THE PARTIES: Syndicate Bank

V/s

Rahi Shipping (I) Pvt Ltd.

SECTION 7 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Mr. Amit Tungare a/w Mr. Deep Dighe, Ms. Jill Rodricks, counsel appearing
for the Liquidator is present through virtual hearing.

I.A. 777/2022

Heard the counsel appearing for the Liquidator and the above Interlocutory
Application is **allowed** detailed order follows:

List the main company petition on **10.08.2022**.

Sd/-
CHANDRA BHAN SINGH
Member (Technical)

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

SKS

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

I.A. 777 OF 2022

IN

CP (IB) – 4227/IBC/MB/2019

Under Section 33(2) of the Insolvency &
Bankruptcy Code, 2016

Filed by

Mr. Ajay Ganesh Marathe

Resolution Professional for:

Rahi Shipping India Private Limited

...Applicant

In the matter of

Syndicate Bank

(Now Canara Bank)

Head Office, Manipal,

District: UDUPI, Karnataka - 576104

...Financial Creditor

Versus

Rahi Shipping India Private Limited

G-37, Ground Floor, Sapana Terrace,

Swatantra Path, Vasco Da Gama,

Goa - 403802

...Corporate Debtor

Order delivered on: 16.06.2022

Coram:

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

Hon'ble Shri Chandra Bhan Singh, Member (Technical)

Appearance:

For the Applicant: Mr. Amit Tungare, Advocate a/w Mr. Ajay Ganesh Marathe, Resolution Professional

1. The above application I.A. No. 777/2022 is filed by Resolution Professional, Mr. Ajay Ganesh Marathe (hereinafter referred to as the “Applicant”) seeking liquidation of Rahi Shipping India Private Limited (hereinafter referred to as the “Corporate Debtor”) under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”), praying for following reliefs:

- a. *That this Hon’ble Tribunal may be pleased to order and direct Liquidation against the Corporate Debtor as per Section 33(2) of the Insolvency and Bankruptcy Code, 2016;*
- b. *That this Hon’ble Tribunal may be pleased to appoint the Applicant viz. Mr. Ajay Ganesh Marathe, IBBI Registration Number IBBI/IPA-001/IP-P01262/2018-2019/12170 as the Liquidator in respect of the Corporate Debtor Company;*
- c. *That this Hon’ble Court may be pleased to issue such other necessary orders and reliefs as may be deemed fit in the present matter.*

2. The brief facts of the application are as follows:

- A. The Applicant mentions that this Tribunal vide its order dated 16.09.2021 in Company Petition No. 4227/MB/2019 admitted the petition under Section 7 of the Code, filed by Syndicate Bank (hereinafter referred to as the “Financial Creditor”) and Corporate Insolvency Resolution Process (hereinafter referred to as the “CIRP”) was initiated against the

Corporate Debtor. The Applicant was appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal.

- B. It is further stated by the IRP that on 06.10.2021 a public announcement was made inviting claims from the Creditors of the Corporate Debtor in The Goan Everyday (English) and Goanvarta (Marathi).
- C. On 27.10.2021, the first meeting of the Committee of Creditors (hereinafter referred to as the “CoC”) took place. Whereby the Applicant was unanimously appointed as the RP by the CoC.
- D. The Applicant further states that in the 4th CoC meeting dated 13.12.2021 the member unanimously decided to opt for Liquidation of the Corporate Debtor as well as appointing the Applicant as the Liquidator of the Corporate Debtor. The relevant extract of the resolution is reproduced herein below for ready reference:-

“RESOLVED THAT *as per the provisions of Section 33(2) of Insolvency & Bankruptcy Code, 2016 & other applicable provisions & regulations of IBBI, Approval of Committee of Creditors of Rahi Shipping Private Limited (CD) be and hereby accorded to liquidate CD before the expiry of Corporate Resolution Process Period of 180 days as it is not possible to revive the CD as going concern.”*

“RESOLVED FURTHER *that Mr. Ajay Marathe Resolution Professional be and at this moment authorized to make necessary application with the adjudicating authority, on behalf of 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

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 777 of 2022 and passed the following:

ORDER

1. The above I.A. No. 777/2022 is allowed and the Corporate Debtor Rahi Shipping India Private Limited is ordered to be liquidated.
 - a. **Mr. Ajay Ganesh Marathe**, having Registration No. IBBI/IPA-001/IP-P01262/2018-2019/12170, having office at: 205, Sudama Yash Apartment, Chittaranjan Das Road, Dombivli (East) – 421201 is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
 - b. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
 - 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. 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. 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.
- g. 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.
- h. 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. 777 of 2022 is hereby allowed and disposed of.

Sd/-
Chandra Bhan Singh
MEMBER (TECHNICAL)

Sd/-
H.V. Subba Rao
MEMBER (JUDICIAL)