

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

IA. No. 5142/2023

In  
CP(IB)No.1005/C-III/MB/2022

*Application filed under section 33(1) of Insolvency  
and Bankruptcy Code, 2016.*

**Ashish Vyash,**  
*RP of Mudhai Dairy Private Limited*  
*Address: B-1 A Viceroy Court CHS, Thakur Village,*  
*Kandivali (East), Mumbai Suburban, Maharashtra-*  
*400101.*

**...Applicant**

*In the matter of*

**ASREC (India) Limited**

**...Financial Creditor**

**V/s**

**Mudhai Dairy Private Limited**

**...Corporate Debtor**

**Order Pronounced on: 08.12.2023**

**CORAM:**

**SHRI CHARANJEET SINGH GULATI**

**HON'BLE MEMBER (T)**

**SMT LAKSHMI GURUNG**

**HON'BLE MEMBER (J)**

*Appearances:*

**For the Applicant/RP : Mr. Manoj Mishra, Advocate**

## **ORDER**

***Per- Smt. Lakshmi Gurung, Member Judicial***

1. This is an application filed u/s 33(1) of the Insolvency & Bankruptcy Code, 2016 (“IBC, 2016”) by Mr. Ashish Vyas, Resolution Professional (“RP”) of Mudhai Dairy Private Limited (“Corporate Debtor”) seeking liquidation order and appointment of liquidator, based on the resolution passed by the Committee of Creditors (“CoC”) in its 7<sup>th</sup> meeting held on 03.10.2023 with a requisite majority as contemplated under IBC, 2016.
  
2. The CP(IB)1005(MB)/2022 was admitted by this Tribunal on 09.11.2022 and Corporate Insolvency Resolution Process was initiated against the Corporate Debtor. The Applicant was appointed as Interim Resolution Professional (“IRP”) and subsequently appointed as Resolution Professional in the 1<sup>st</sup> CoC meeting. The Applicant submitted that during the course of Corporate Insolvency Resolution Process of the Corporate Debtor as many as seven CoC meetings were held.
  
3. The Applicant issued a Public Announcement in Form ‘A’ inviting claims on 21.11.2022 in Free Press, (English Ed.) and Navshakti, (Marathi Ed.). On the basis of the claims received and admitted, the Applicant constituted the CoC on 10.12.2022, comprising of sole Financial Creditor namely ASREC (India) Limited (with 100% voting share).
  
4. The Form G inviting EoIs was published twice i.e., on 15.02.2023 (inviting EoIs till 02.03.2023) and on 01.04.2023 (inviting EoIs

till 15.04.2023). In response to the publication of the 2<sup>nd</sup> Form G, the Applicant received enquiries from 6 (six) interested parties, in furtherance to which, the Applicant shared detailed EoI with all the concerned parties. However, the Applicant had received Resolution Plan from only one person namely Mr. Anil Agarwal (“PRA”).

5. Meanwhile, the CIRP Period got expired on 08.05.2023, therefore the Applicant on the instructions of the CoC filed an application for extension of the CIRP Period by 90 days w.e.f., 08.05.2023 till 06.08.2023 to complete the CIRP process, same was allowed by this Tribunal vide order dated 19.05.2023. The PRA submitted its original Resolution Plan on 29.06.2023.
6. In order to approve the Resolution Plan, the CoC granted an additional time of 20 days to the PRA to improve the plan. Meanwhile, the Applicant on the instructions of the CoC filed an another application to seek extension of the CIRP period by 60 days from 06.08.2023 till 05.10.2023, which was allowed by this Tribunal vide order dated 03.10.2023.
7. However, no revised resolution plan was received from the PRA, therefore the resolution plan submitted on 29.06.2023 was treated as the Final Resolution Plan.
8. In the 7<sup>th</sup> CoC meeting convened on 03.10.2023, the sole CoC Member viz. ASREC (India) Limited rejected the resolution plan submitted by the PRA. Further, the CoC took the decision to liquidate the Corporate Debtor as per the section 33(1) of the

Code and to appoint Mr. Dinesh Gopal Mundada as liquidator. The relevant extract of the resolution passed in 7<sup>th</sup> CoC meeting are as follows:

*"1. RESOLVED THAT the consent of the Committee of Creditors Mudhai Dairy Private Limited, be and is hereby accorded to approve the liquidation of the Corporate Debtor under section 33(1) of the Code.*

*RESOLVED FURTHER THAT Mr. Dinesh Gopal Mundada, Insolvency Professional having IBBI registration no. IBBI/IPA-001/IP-P00286/2017-2018/10530 will be appointed as liquidator of the Corporate Debtor, Further the resolution professional be and is hereby authorized to file the Liquidation application before the Hon'ble NCLT"*

*2. RESOLVED THAT Liquidator may explore the possibility of a compromise or arrangement as referred to under sub-regulation 1 of regulation 2B of the IBBI (Liquidation Process) Regulations, 2016.*

*RESOLVED FURTHER THAT liquidator may explore sale of the corporate debtor as a going concern under clause (e) of regulation 32 of the IBBI (Liquidation Process) Regulations, 2016 or sale of the business of the corporate debtor as a going concern under clause (f) thereof.*

*3. RESOLVED THAT in pursuance to regulation 39B of the IBBI (liquidation Process) Regulations, 2016, following tentative amount, as Liquidation cost is hereby approved:*

<i>Public Announcement and filling expenses:</i>	<i>At Actual</i>
<i>Legal Expenses</i>	<i>: At Actual</i>
<i>Auction and Printing Expenses</i>	<i>: At Actual</i>

<i>Liquidator Fees</i>	<i>: As per IBBI Regulation</i>
<i>Security Fees</i>	<i>: At Actual</i>
<i>Account and Auditing Fees</i>	<i>: At Actual</i>
<i>Other Contingencies</i>	<i>: At Actual"</i>

9. Considering the averments in the application and the fact that CoC has rejected the only Resolution Plan and decided to liquidate the Corporate Debtor, we are of the opinion that this is a fit case for liquidation, therefore, we hereby order for liquidation of the company with directions as follows:

- a. After looking into the consent given by the Applicant/Insolvency Professional and the minutes of 7<sup>th</sup> meeting of CoC, **Mr. Dinesh Gopal Mundada**, holding Registration **No. IBBI/IPA-001/IP-P-00286/2017-18/10530**, is appointed as the Liquidator in terms of Section 34 of the Code;
- b. Registry is directed to communicate this Order to the Registrar of Companies, Mumbai and to the Insolvency and Bankruptcy Board of India;
- 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. This order shall be deemed to be a notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- e. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant rules and regulations.

- f. The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.
- g. 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.
- h. The Liquidator shall submit a 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;
- i. Copy of this order be sent to the financial creditors, corporate debtor, the Liquidator for taking necessary steps.

10. The **IA-5142/2023** filed by the RP for Liquidation of the Corporate Debtor stands **allowed**.

Sd/-

**CHARANJEET SINGH GULATI**  
**(MEMBER TECHNICAL)**

Sd/-

**LAKSHMI GURUNG**  
**(MEMBER JUDICIAL)**