



**NATIONAL COMPANY LAW TRIBUNAL**  
**COURT ROOM NO.1**  
**MUMBAI BENCH**

**Item No.1**

**IA (LIQ)/89/2024 IN C.P. (IB)/1039(MB)2022**

CORAM:

**SH. PRABHAT KUMAR**

**JUSTICE V.G. BISHT (RETD.)**

**HON'BLE MEMBER (TECHNICAL)**

**HON'BLE MEMBER (JUDICIAL)**

**ORDER SHEET OF THE HEARING ON 14.10.2024**

NAME OF THE PARTIES: **NORTH AMERICAN MERCANTILE  
INDIA PRIVATE LIMITED**

Sec 10 Sec 33(1) (b) (i) to (iii) r/w Sec 33(3) of Insolvency and Bankruptcy code, 2016.

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**ORDER**

**IA (LIQ.)/89/2024 (NEW IA) in C.P. (IB)/1039(MB)2022**

- 1) Mr. Aniket Malu, Ld. Counsel for the Applicant/Resolution Professional is present.
- 2) This is an Interlocutory Application filed by the Applicant/Resolution Professional of the Corporate Applicant under Section 33 of the Insolvency and Bankruptcy Code, 2016 (the Code) for initiating Liquidation Process in the case of **North American Mercantile India Private Limited** (Corporate Applicant).
- 3) The facts leading to the case in hand are as follows:



- a. Corporate Insolvency Resolution Process (CIRP) of the Corporate Applicant was initiated by this Tribunal *vide* order dated **02.01.2024** upon admission of a Company Petition under Section 10 of the Insolvency and Bankruptcy Code, 2016 (the Code) and the Applicant herein was appointed as the Interim Resolution Professional (IRP) of the Corporate Applicant.
- b. The Applicant issued a public notice, constituted CoC and was confirmed as Resolution Professional in the 1st meeting of CoC held on 02.02.2024. Subsequently, the Applicant issued Form-G inviting an Expression of Interest for resolution of the Corporate Debtor.
- c. It is submitted that a Resolution Plan received from one of the Prospective Resolution Applicants – B & B Global Enterprises was put before the CoC to discuss its feasibility, viability and compliance with the provisions of IBC in the 5th meeting of the CoC held on 17.05.2024. However, the CoC was of the opinion that the Resolution Plan was conditional and involved a lot of uncertainties with regard to the time frame and amount payable to the creditor, as the amount payable to the creditors was subject to the realization of trade receivables of the Corporate Debtor.



- d. The CoC with 100% voting resolved and approved the estimated cost of liquidation, and liquidator's fees, to assess the sale of the Corporate Debtor as a going concern under liquidation and to ratify the CIRP cost. However, the CoC abstained from voting on the joint Resolution for the Liquidation of the Corporate Debtor and the appointment of the Applicant as Liquidator, stating the joint Resolution needs to be split between the resolution for liquidation and the appointment of Liquidator.
- 4) Subsequently, the CoC member vide its email clarified that they have voted in favour of the Liquidation of the Corporate Debtor and abstained on the resolution for the appointment of Liquidator.
- 5) In any event, the 180 days of insolvency resolution process ended on 30.06.2024 and no resolution of Corporate Debtor was possible in view of rejection of Resolution Plan by CoC. In view of the same, there is no option but to liquidate the Corporate Debtor in terms of Section 33 of IBC and the Rules and Regulations thereunder.
- 6) Ms. Palak Swapnil Desai, an Insolvency Professional, has also given her consent in FORM AA to be acted as a Liquidator of the Corporate Debtor herein.



7) Hence, the present Interlocutory Application has been filed seeking Liquidation of the Corporate Applicant in view of the decision taken by the Committee of Creditors and in view of the expiry of CIRP Timelines, we have considered it appropriate to pass the Order for Liquidation of the **Corporate Applicant viz. North American Mercantile India Private Limited** in the manner laid down in Chapter III of the Code considering the fact there is no Resolution Plan for consideration and CoC does not foresee any possibility of getting Plans for the Corporate Applicant. Hence ordered.

### **ORDER**

- a) The Application be and the same is allowed. The Corporate Applicant, **North American Mercantile India Private Limited**, shall be liquidated in the manner as laid down in Chapter-III of the Code.
- b) **Ms. Palak Swapnil Desai, Insolvency Professional having IBBI Registration No. IBBI/IPA-001/IP-P-01517/2019-2020/12515 is appointed as Liquidator of North American Mercantile India Private Limited.**
- c) 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.



- d) The Moratorium declared under Section 14 of the IBC 2016 shall cease to operate here from.
- e) Liquidator shall issue public announcement stating that Corporate Applicant is in Liquidation.
- f) The Liquidator shall endeavour to sale the Company as a going concern during the liquidation in terms of Regulation 32A of the Liquidation Process Regulations. In case he is not able to do so within a period of 90 days from this date, he shall proceed in accordance with clauses (a) to (d) of Regulation 32 of the Liquidation Process Regulations.
- g) Subject to Section 52 of the Code no suit or other legal proceedings shall be instituted by or against the Corporate Applicant. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- h) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Applicant shall cease to have effect and shall be vested in the Liquidator.
- i) The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code read with the Liquidation Process Regulations.



- j) Personnel connected with the Corporate Applicant shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- k) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Applicant, except when the business of the Corporate Applicant is continued during the liquidation process by the Liquidator.
- l) The Liquidator shall submit progress reports as per Regulation 15 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- m) The Liquidator is hereby Authorized to represent the Corporate Applicant before the Government Authorities, if need be.
- n) Registry shall furnish a copy of this Order to the **Insolvency and Bankruptcy Board of India, New Delhi; Regional Director (Western Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Maharashtra; the Registered Office of the Corporate Applicant;** and the Liquidator, Ms. Palak Swapnil Desai, having address 901, 9th Floor, Park Vistas, Lallubhai Park Road, ,Near MTNL, Andheri (West), Mumbai-400058, Mumbai City, Maharashtra, 400 058, having E-mail ID **palakdesai77@gmail.com**.



- 8) Needless to say, Committee of Creditors shall ratify and clear the fees of the erstwhile Resolution Professional of the Corporate Applicant, if any, due and payable.
- 9) With the aforesaid observations and directions, the Interlocutory Application bearing **IA (Liq.) No. 89 of 2024**, stands disposed of as Allowed.
- 10) There will, however, be no order as to costs. Ordered Accordingly.

Sd/-  
**PRABHAT KUMAR**  
**MEMBER (TECHNICAL)**  
Prajakta

Sd/-  
**JUSTICE V.G. BISHT**  
**MEMBER (JUDICIAL)**