

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

IA. No. 1984 of 2021

IN

C.P.No.(IB)1852(MB) of 2019

Under Section 33(3), r/w 14 of Insolvency
& Bankruptcy Code, 2016

In the matter of

Pratibha Krushi Prakriya Limited.

.... CORPORATE DEBTOR

I. A. No. 1984 of 2021

Mr. Vishal Ghisulal Jain

.... Applicant/Liquidator

Reserved for order on : **23.12.2022**

Order Pronounced on : **02.02.2023**

Coram:

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

Hon'ble Smt. Madhu Sinha, Member (Technical)

For the Applicant: Mr. G. Aniruth Purusothaman (Advocate),
Mr. Vishal jain, RP

Per: *Shri H. V. Subba Rao, Member (Judicial)*

1. The above application I.A. No. 1984/2021 is filed by Resolution Professional, **Mr. Vishal jain** (hereinafter referred to as the "Applicant") seeking liquidation of **Pratibha Krushi Prakriya Limited.** (hereinafter referred to as the "Corporate Debtor") under Section 33(3) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as "the Code"), praying for following reliefs:

- a. *Pass an order directing the initiation of Liquidation of the Corporate Debtor in accordance with Chapter III of Part II of the IBC, 2016;*
- b. *Appoint Mr. Jitendra Kumar Jain IBBI Registration No. IBBI/IPA-002/IP-N00033/2016-17/10070 as the Liquidator of the Corporate Debtor.*
- c. *Pass ad-interim and interim reliefs in terms of Clause A and B.*
- d. *Pass such other order/directions as this Hon'ble Bench may deem fit and proper in the facts and circumstances of the case.*

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

- A. The present Application has been preferred by Pratibha Krushi Prakriya Limited. ("Corporate Debtor") under Section 33(3) of the Insolvency and Bankruptcy code, 2016 ("the code"), in order to bring to the kind notice of this Hon'ble Tribunal that the Committee of Creditors ("COC") of the Corporate Debtor, which consists of the financial creditor, namely American Express Banking Corp has resolved to liquidate the Corporate Debtor.
- B. On 02.08.2019 this Bench Vide its order admitted this Petition initiating CIRP on the Corporate Debtor wherein Ms. Jovita Reema Mathias was appointed as Interim Resolution Professional.
- C. On 07.09.2019 & 08.09.2019, Public Announcement were made calling upon the creditors of the corporate debtor to submit proof of claims in Two Newspapers i.e. New Indian

Express and Navrashtra and also published in the website of the IBBI.

- D. On 04.10.2019 in the 1st meeting of the CoC it was resolved to replace the IRP with Mr. Vishal Ghisulal Jain as the Resolution professional
- E. On 07.01.2020, the Applicant tabled the unaudited financials as on 04.09.2019 and 31.12.2019. The Applicant also discussed the sale of the luxury cars of the corporate debtor and stated that NOC is required from Bank of India, so that an application can be filed with this Bench. The members further discussed the Corpus Fund and the Interim Finance. The members of the CoC further voted upon to raise Interim Finance, re-issue Invitation for Expression of Interest and to keep it open until 31.01.2020, monthly advance contribution to Corpus Fund and reduction in the refundable EMD.
- F. The Applicant on 13.12.2019 published Form-G for invitation of Expression of Interest in the Financial Express (Ahmedabad, Bengaluru, Chandigarh, Chennai, Delhi, Hyderabad, Kochi, Kolhapur, Kolkata, Lucknow, Mumbai and Pune Editions) and Navarashtra (Mumbai Edition) newspapers wherein last date for submission of the Resolution plan was on 11.02.2020.
- G. On 09.09.2020 in the 8th CoC meeting, the members of the CoC voted for re-issuing of the initiation for Expression of Interest and time period allowed for the submission of the resolution plan shall be minimum 30 days as per the Regulation 36B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.

H. On 09.07.2021, in the 14th CoC meeting, the members of the CoC unanimously in favor of approving the liquidation of the Corporate Debtor under Section 33(2) of the Code and authorized the Applicant to file the said application for liquidation with the Adjudicating Authority. The members of the CoC voted to reject the resolution to continue the Applicant as the Liquidator of the Corporate Debtor. The members of the CoC voted in favor of the Resolution to appoint Mr. Jitendra Kumar Jain, IBBI Registration No. IBBI/IPA-002/IP-N00033/2016-17/10070, as the Liquidator of the Corporate Debtor.

I. In the 14th CoC Meeting the members decided to unanimously opt for Liquidation. The relevant extract of the resolution is reproduced herein below for ready reference:-

1) To vote upon the liquidation of the Corporate Debtor under section 33(2) of the code:

The members agreed to put up the following resolution for voting:

*“**RESOLVED THAT**, the consent of the Committee of Creditors be and is hereby accorded to approve the liquidation of the Corporate Debtor under section 33(2) of the code, in view of no binding resolution plan”.*

*“**FURTHER RESOLVED THAT** the Resolution Professional Mr. Vishal Ghisulal Jain be and is hereby authorised to file the said application for liquidation with the Adjudicating Authority and to appoint a lawyer for the same and to approve the costs at actuals .”*

Accordingly, the resolution received 96.18% votes in favor. Therefore, the resolution was approved unanimously.

- J. In the 14th CoC meeting on 09.07.2021, it was further decided and voted for the Appointment of the Liquidator and his fees, the Extracts for the same are as follows:

“RESOLVED THAT the consent of the Committee of Creditors be and is hereby accorded to appoint Mr. Jitendra Kumar Jain, IBBI Registration No. IBBI/IPA-002/IP-N00033/2016-17/10070, as the Liquidator of the Corporate Debtor. No additional fees shall be claimed as per table given in the Regulation 4 of IBBI Liquidation Regulations”.

Accordingly, the resolution received 78.42% votes in favor. Therefore, the resolution was approved unanimously.

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 14^h CoC meeting that the CoC has unanimously decided to liquidate the Corporate Debtor. This bench, therefore allows the above Interlocutory Application Number 1984 of 2021 and passed the following:

ORDER

1. The above I.A. No. 1984/2021 is Allowed, and the Corporate Debtor **Pratibha Krushi Prakriya Limited**. is ordered to be liquidated.

- a. **Mr. Jitendra Kumar Jain** (IP Registration No. IBBI/IPA-002/IP-N00033/2016-2017/10070) 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 1,40,000/-. No additional fees shall be claimed as per Regulation 4 of IBBI Liquidation Regulations.
- 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.
- j. Registry is directed to communicate this order to the Liquidator.

With the above observations and directions, the above Application No. 1984 of 2021 is hereby allowed and stands disposed of.

Sd/-
Madhu Sinha
MEMBER (TECHNICAL)

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