

**THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-I**

I.A. 4086 OF 2023

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

Mr. Jitendra Kothari

Resolution Professional/
...Applicant

In the matter of

C.P.(IB) No. 39/MB/2022

CFM Asset Reconstruction Private Limited
Operational Creditor

Vs.

RNP Marketing & Cargo Private Limited
Corporate Debtor

Order delivered on: 11/10/2023

Coram:

Shri Prabhat Kumar
Hon'ble Member (Technical)

Justice Shri V.G. Bisht
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant : Mr. Harsh Kesharia, Advocate

ORDER

Per: V.G. Bisht, Member (Judicial)

1. The above application I.A. No. 4086/2023 is filed by Mr. Jitendra Kothari, seeking liquidation of RNP Marketing & Cargo Private Limited (hereinafter referred to as the "Corporate Debtor") under

Section 33 (1) of the Insolvency and Code, 2016 (hereinafter called as “the Code”).

2. The brief facts of the application are as follows:
 - a. The Applicant mentions that this Tribunal vide its order dated 16.12.2022 in Company Petition No. 39/IBC/MB/2022 admitted the petition under Section 7 of the Code, filed by CFM Asset Reconstruction Private Limited (hereinafter referred to as the “Operational Creditor”) and Corporate Insolvency Resolution Process (hereinafter referred to as the “CIRP”) was initiated against the Corporate Debtor. Mr. Jitendra Kothari, was appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal, later CoC confirmed him as RP.
 - b. Ld. Counsel for the Applicant submits that pursuant to the publication of FORM-G on 27.04.2023, the Applicant received five Expression of Interest (EOIs) from Agam Pulp and Paper Private Limited; Mr. Amrish Kumar Agarwal; Nakshatra Corporate Advisors Limited; Mr. Kapil Mantri and Shubhlaxmi Investment Advisory Private Limited within the due date and the last date of submission of Resolution Plan was 27.06.2023.
 - c. Ld. Counsel for the Applicant further submits that in the sixth CoC meeting held on 14.07.2023, the Applicant proposed for

re-issuance of Form-G, however, CoC rejected the said resolution. Further, in the 7th CoC meeting held on 04.08.2023, the CoC passed a resolution with 98.26% vote to liquidate the Corporate Debtor since the plant and machinery were non-operational and also there were no employees in the Corporate Debtor. The relevant extract of the resolution reproduced hereinunder:

“RESOLVED THAT pursuant to the provision of Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (Code) read with the provision of Insolvency and Bankruptcy Board of India (Liquidation process Regulations, 2017 and relevant applicable provisions the consent of the members of Committee of Creditors be and is hereby accorded for the liquidation of the corporate debtor RNP Marketing and Cargo Private Limited.

RESOLVED FURTHER THAT the consent of members be and is hereby authorised Mr. Jitender Kothari, Resolution Professional be and is hereby authorised to make necessary application and to do all such acts, deeds and things to initiate liquidation process of the Corporate Debtors under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 with adjudicating authority.”

3. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, this bench is of the opinion that the Corporate Debtor is required to be liquidated in the manner as laid down in the IBC 2016.

ORDER

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4. The above I.A. No. 4086/2023 is allowed and the Corporate Debtor “*RNP Marketing & Cargo Private Limited*” is ordered to be liquidated as a going concern for the first attempt and if it fails, then sale by other methods should be tried.
- a. Mr. Jitendra Kothari, having Registration No. IBBI/IPA-001/IP-P00540/2017-18/10965, 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.

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- 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 u/s 33(7) 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.
- i. The liquidator shall be at liberty to pursue pending the Interlocutory Application pertaining to avoidance transactions, if any.

With the above directions, the I.A. No.4086/2023 filed u/s 33 (1) by the applicant is hereby allowed and disposed of.

Sd/-

Prabhat Kumar
Member (Technical)

/NP/

Sd/-

Justice V.G. Bisht
Member (Judicial)