

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.301
IA/362(AHM)2023 in
CP(IB)/240(AHM)2021

Order under Section 33(2) IBC

IN THE MATTER OF:

Vinod Agrawal RP For Map Refoils India Limited

.....Applicant

Order delivered on: 25/01/2024

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)

Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

S/d-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

S/d-

CHITRA HANKARE
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMADABAD BENCH
COURT No.-2**

IA NO. 362 OF 2023

IN

COMPANY PETITION (IB) NO. 240/AHM/2021

[An application filed under section 33(2) of the Insolvency and Bankruptcy Code,2016 for initiation of liquidation of the Corporate Debtor]

Mr. VINOD AGRAWAL

(Resolution Professional of MAP Refoils India Limited)

having its office at 204, Wall Street-1,

Near Gujarat College, Ellisbidge,

Ahmedabad - 380006

... Applicant

IN THE MATTER OF:

Hitesh Gajjar

...Operational Creditor

Vs.

Map Refoils India Limited

... Corporate Debtor

Order Pronounced on: 25.01.2024

Coram:

MRS.CHITRA HANKARE, MEMBER (JUDICIAL)

DR. V. G. VENKATA CHALAPATHY, MEMBER (TECHNICAL)

Present:

For the RP: Mr. Monaal Davawala Adv. a.w. Mr. Yuvraj Thakore, Adv.
For RP in Person: Mr. Vinod Agarwal

JUDGMENT

1. This is an application filed by the Resolution Professional (hereinafter referred to as “RP”) under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “Code”) for passing an order of liquidation of the Corporate Debtor, M/s. Map Refoils India Limited.
2. The facts as narrated in the application and explained by the counsel for the applicant RP are summarized hereunder :
 - (i) One of the Operational Creditors i.e. Hitesh Gajjar had filed an application under Section 9 of the Code for initiation of Corporate Insolvency Resolution Process (hereinafter referred to as the ‘CIRP’), against the Corporate Debtor which was admitted vide order dated 04.04.2022 and Mr. Dhaval Mistry was appointed as Interim Resolution Professional (hereinafter referred to as “IRP”).
 - (ii) The IRP under Section 15 of the IB Code r.w. Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Process for Corporate Persons) Regulations, 2016, made a public announcement in FORM-A on 07.04.2022.
 - (iii) The IRP collated all claims submitted by the creditors pursuant to Public announcement and accordingly constituted a Committee of Creditors (hereinafter referred to as the “CoC”) on 07.06.2022.

- (iv) The Applicant submitted that the CoC resolved to replace the IRP accordingly this Tribunal replaced the IRP and appointed Mr. Vinod Agrawal as the RP vide order dated 21.06.2022.
- (v) It is further submitted that the CoC meeting was held on 06.07.2022 wherein CoC member has resolved to invite the Expression of Interest i.e. Form G. Pursuant to approved resolution for the invitation of Expression of Interest which was published in the prescribed form "Form G" on 11.07.2022.
- (vi) It is submitted that the 3rd CoC meeting on 29.09.2022, wherein apprised the sole CoC Member that pursuant to publication of Form-G, the RP had received four Expression of Interest. The details of the Provisional Prospective Resolution Applicants are as under:-
- 1) Mr. Rakesh R. Shah
 - 2) Mr. Kirti Kalidas Patel
 - 3) KLJ Resource Ltd.
 - 4) Mr. Kartik Jasubhai Patel
- (vii) It is submitted that the RP apprised the members of the CoC that only two Resolution Plans were received from the PRA i.e. Mr. Rakesh R. Shah and Mr. Kirti Kalidas Patel.
- (viii) It is further submitted that the 330 days of CIRP is getting over on 14.03.2023. Thereafter, on an application filed by the RP, this Authority granted an extension of 90 days vide order dated 21.10.2022 and a further extension of 60 days vide order dated 13.01.2023.
- (viii) It is also submitted that one of the PRA sent an intimation through an email dated 06.01.2023 for withdrawal of the Resolution Plan submitted with the applicant/RP. Thus, with

only one PRA remaining which is submitted the Plan with the RP and the said Plan has not been approved by the CoC. Thereafter the CoC comprising 8 financial creditors, decided to liquidate the Corporate Debtor pursuant to the resolution passed by the CoC by 98.67% voting in its meeting held on 07.02.2023.

3. As per the compliance affidavit filed by the applicant on 11.01.2024, the fair value and liquidation value are Rs. 91,55,06,404 and Rs. 63,43,47,718 and the Revised Resolution Plan was received at Rs. 48,31,00,000/-.
4. Considering the documents and submission made, since the COC in its commercial wisdom has decided to take the Corporate Debtor in liquidation, we are of the opinion that the decision of the COC after making all efforts to get a viable resolution plan was not possible, liquidation has been approved. The present application seeking liquidation of the Corporate Debtor M/s. MAP Refoils India Ltd., is in the manner laid down in Chapter III of Part II of the Code is allowed.
5. Considering the above, we hereby order for liquidation of the Corporate Debtor. The IBBI vide its circular number Liq-12011/214/2023-IBBI/840 dated 18/07/2023 in the exercise of its powers conferred under Section 34 (4) (b) of the Code, had recommended that an IP other than the RP/IRP may be appointed as liquidator in all the cases where liquidator (read liquidation) order is passed henceforth. In terms of the above circular of IBBI, we hereby appoint **Mr. Mukesh R. Dayani, having Registration No.IBBI/IPA-002/IP-N01138/2021-2022/13915** and email id is mukeshdayani.ip@gmail.com as per the panel suggested by IBBI for this Bench for the period of July, 1 to December 31, 2023, as

the Liquidator of the Corporate Debtor to carry the liquidation process. Hence, we passed the following orders:-

ORDER

- a) We hereby order the liquidation of the Corporate Debtor - M/s. MAP Refoils India Ltd. in terms of the provisions of section 33(2) of the Code r.w. Regulations made thereunder which shall be effective from the date of this order.
- b) The Moratorium declared under section 14 of the Code shall cease to have effect from the date of the order of liquidation.
- c) As per section 34(4)(b) of the Code, **Mr.Mukesh R. Dayani, having Registration No.IBBI/IPA-002/IP-N01138/2021-2022/13915** is hereby appointed as a Liquidator of the Corporate Debtor i.e., M/s. DNB Impex Private Limited. The Liquidator so appointed shall complete the liquidation process as per the provisions of the Code r.w. the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- d) The liquidator to issue a public announcement stating that the corporate debtor is in liquidation in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- e) The liquidator is 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 to follow up and continue to investigate the financial affairs of the corporate debtor to determine any undervalued and preferential transactions, etc. in terms of the provisions of Section 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.

- g) This order is deemed to be a notice of discharge to the officers, employees and workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016.
- h) The Liquidator is to 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) Once the liquidation process is initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor. The Liquidator has the liberty to institute a suit and other legal proceedings on behalf of the Corporate Debtor with the prior approval of this Adjudicating Authority, as provided in subsection (5) of section 33 of the Code.
- j) It is further directed that the Personnel of the Corporate Debtor extend all assistance and cooperation to the Liquidator as may be required in liquidating the affairs of the Company in discharging his function as specified under Section 35 of Insolvency & Bankruptcy Code, 2016.
- k) The Liquidator will charge fees for the conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and the same shall be paid to the Liquidator from the proceed of the liquidation estate under section 53 of the Code.
- l) The present Resolution Professional is directed to hand over the relevant documents and control of the Corporate Debtor to the newly appointed liquidator forthwith.
- m) The Registry is directed to communicate this order to the concerned Registrar of the Companies, the registered office of the Corporate Debtor, IBBI, the resolution professional, and

the Liquidator by speed post as well as e-mail within one week from the date of this order, after completion of all the formalities.

- n) In terms of the above, the present application IA No. 362(AHM)2023 in CP(IB) No. 240 of 2021 is allowed and disposed off.

S/d-
DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

S/d-
CHITRA HANKARE
MEMBER (JUDICIAL)